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BATTLING THE CRIMINAL

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Richard Washburn Child

BATTLING THE CRIMINAL

BODBANK

FRESH WATERS

JIM HANDS

POTENTIAL RUSSIA

THE BLUE WALL

VANISHING MEN

VELVET BLACK

BATTLING THE CRIMINAL

BY
RICHARD WASHBURN CHILD



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FOREWORD

THE investigation of which this volume is a brief survey was inspired by a belief that no existing agency of law enforcement and none of the detailed studies or analyses made of our wretched record in unpunished crime had proved effective in stopping a condition, not only humiliating, but also menacing to our national stability. The requirement of the time was not for a storehouse of statistical information, even if adequate statistical information had been available. The need was not for dependence upon profound research into those so-called fundamental causes for human delinquencies which still exist after thousands of years of human speculation and struggle. The hope was not to remake mankind by some eighty thousand words of printed matter.

A much more practical end was sought. It was to awaken American citizenship to an emergency, to seek and set forth, though the task was by no means agreeable, the main truth as to the criminal's paradise we have tolerated in America and a route map of the immediate steps good citizenship will take when it determines to end the scandal.

The material set forth in these pages has already

stirred action in many corners of the country; it was the forerunner of the formation of a National Crime Commission organized to express the power of citizenship when that power is awakened. The test of value of any study lies not only in its well-ordered presentation of facts, but in its ability to agitate human interest and, better still, to cause intelligent and widespread activity.

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BATTLING THE CRIMINAL

Battling the Criminal

CHAPTER I

OUR CRIME TIDE

IN A Middle-Western city six members of the detective squad had visited a cellar dancing resort where gunmen and crooks take their molls. It was anything but pleasant to be along and observe the treatment of two criminals of record who attempted to argue against arrest.

My usual pathways do not lead into the shadowy, dark, and bloody corners. I would have preferred not to see one of my detective friends work on a hoistman, as they call hold-up artists, because for one reason the incorrigible criminal was a boy of twenty with clear blue eyes, a lean strong body, clean hands, polished nails, and it was difficult to believe that he was a killer.

At that moment of unpleasant observation, I had to remind myself of the exact reason for my being in the middle of a room afloat with cigarette smoke and oriental perfumery while the representatives of the law took away a criminal's revolver. The ex-

act reason for my presence there was that I had been representing the United States in Europe; and having lived abroad I had learned, as few Americans ever know, that our neighbours see clearly the great American scandal.

We have one preëminent national disgrace: It is our crime record.

Said one foreign prime minister, "With your passion to make laws, with your hunger to remake humanity by statute, how extraordinary to discover that you fail to abide by law or enforce law!"

This often-expressed indictment by other peoples gave my national pride a shudder, but the indictment stands. We can laugh at any derision or accusation which is unfounded upon fact. But when the outer world, to which some of our citizens desire to read moral lessons against war, violence, and unlawful conduct, tells us that we cannot—or at least do not—enforce the law, protect ourselves from being the sport of criminals, or banish savage violence from our street, our city, or our nation, we may well flinch.

The charge is true. The evidence should be flung into the face of our public opinion by someone. The great and growing shame of America is—crime.

I have laboured to discover just how bad the record is becoming, what causes it, how it can be cured. If there were a grotesque side of finding myself in many strange corners, it was the result of

deliberate intention. I had set out to rub elbows with the record, the methods, and the natural history of our crime, of our lawlessness, of our complacent and wholly unnecessary tolerance of savagery and disorder in America.

I began with three convictions about my task, and they are now even more deeply rooted. The first is that, whatever the detailed cure for our scandal of lawlessness, the only hope of application of it rests upon the upgetting of public opinion. There will be no turn of the tide of lawlessness until the millions are willing to do what I determined to do—to find the intimate human facts and face them.

We hear a good deal these days about fact-finding as the basis for our domestic legislation or for our foreign policy. Far from disagreeing with this, I am one who has almost tired of expressing hope that we make our conclusions and found our programmes upon a world as it is and not upon the unreality of a world as we might wish it to be. But inducing the world to accept the principle of fact-finding is a petty labour compared to the appalling task which follows it. Fact-finding is all right. We need something else. It is the grim business of fact-facing. The reluctance to face facts is the difficulty which hinders the stirring of intelligent opinion and action against our lawlessness and our mounting crime tide.

The second conviction is that public opinion—the upgetting of the millions of decent citizens—has

not gone, is not going and will not go into action merely because the available flimsy crime statistics are presented, or because white-cuffed gentlemen speak at banquets in an impassioned manner and send deputations to carry hot but empty phrases of protests to helpless mayors, governors, and Federal officials, or because various anti-crime societies and lawyers' associations publish their qualified and cautious reports and recommendations, valuable as they may be. It avails little to repeat over and over, "The law must be enforced"; it avails little to suggest remedies unless one knows the nature of the disease by intimate rather than statistical investigation of it.

The third conviction, proved by all the evidence flowing in, is the paradoxical truth that one source of our crime is not crime but law. Unnecessary or impracticable laws are almost certain to lead to a breach of law, to a disrespect for law, to a breakdown of our whole law enforcement. It is possible to obtain enforcement of law only when laws represent the social will. If there are so many laws that they overlap or become dead letters or cannot be understood and interpreted, it is ridiculous to say that they represent the social will. Every one of us has met the man or woman who goes about saying phrases like these:

"The law is the law. We must obey the law while it is on the statute book."

"The best way to repeal a bad law is to enforce it."

"We must not allow men or women to uphold only the laws they want enforced while they break laws they do not want enforced."

There is no complaint against these sayings, but none of us should lose sight of the fact that the respect for law which is worth something is not the idolatry of so many paragraphs of printed words on page 2123 of the Revised Statutes, but is respect for the social will—the common consent and agreement of men and women which support that law.

I am not referring particularly to laws prohibiting the sale and transportation of liquors. If the social will is behind those laws or gets behind them that question will take care of itself. We need not discuss it here. I refer to the multiplicity of laws, the laws which are semi-dead, the laws which propose to legislate into being new human characters, the laws which somehow get on to the printed page without the social will to enforce them.

I have heard a great industrial leader of America sitting in his limousine on his way to his country place condemn the lawbreakers, but the limousine was running ten miles an hour faster than the law allowed.

I have heard a minister of the gospel discourse on the wickedness of failing to obey all laws literally while riding on a train on Sunday through a

state in which there was still a law prohibiting travel and the operation of railways on Sunday.

I crossed the Atlantic with an old and famous lawyer who talked vehemently about the decline of morals and integrity in modern American youth, but when he landed I did not hear him say anything to the customs officials about a necklace he was bringing as a present to his eighteen-year-old daughter.

Literal obedience to the law should be the social will. If anything I may write tends to make it so, I shall be glad; but it is absurd to assert that in any period, or to-day, written and printed laws and the social will absolutely coincide. And this is quite in accord with the whole experience of the world and all the lessons in the history of law. The function of government has never been extended successfully to moulding individuals, remaking them, changing their character or dictating conduct which does not directly affect the safety or property of others. The whole trail of such attempts is a trail of failure. I may hope for its success, but I can find no evidence to support my hope. Government is to control the affairs between men.

And yet if government has bitten off more than it can chew when it enters the personal reform field, the damage is greater than mere failure. Even the elevator boy senses the difference between breaking a law which is passed to save others from harm and a law which is passed to save a man from him-

self; but the tragic result of breaking the one kind of law leads to habits of lawbreaking which stop at no particular boundary. There is a difference between laws against stepping on other people's toes and laws which forbid one to step on his own toes. But the practical result of the second class of laws which lack the social will is that such laws, if the experience of the world is worth anything, never can be enforced, and directly stimulate lawbreaking as to all laws. They drag into the field of law enforcement a vast and disgusting hypocrisy so that we are forced to see men who break them behind closed doors—judges, legislators, and even the highest executives, as I have seen myself—go forth in fear and deceit to orate about law enforcement.

It may be that the best way to repeal a bad law is to enforce it; but the best way to get a high tide of lawbreaking is to pass laws that cannot be enforced either because there is not sufficient social will, which in the last analysis is the law rather than any printed words, or because government has gone beyond its function.

As one who makes a countrywide survey finds to-day, we are headed, not for more law enforcement, but for less; not for less crime, but for more.

"Oh, it may be bad enough already," said an honest and efficient and frank chief of police of one of our big cities. "But wait ten years! What I see by being close to lawbreaking the average man and woman knows nothing about. It's all Greek

to them. If I had known what we would be up against, I never would have chosen this work!"

He has not exaggerated the condition. Statistics about our national scandal have some value. They at least have value in indicating by their almost negligible quantity and quality that no force of public opinion exists in the United States to keep track of our wild and wasteful and violent crime record.

The press from time to time prints stories about a crime wave. I have been unable to find any evidence of importance on crime waves. They exist at certain seasons or in times of unemployment. But it is not crime waves which need bother us; not crime waves, but the American crime tide.

Certain publicity agencies serving special groups send out the well-worn story from time to time that the reforms have emptied the jails. The crime tide, rising steadily in the United States, was lifted higher after the sense of responsibility and discipline of the war were removed, and there are no indications, whether they be drawn from statistics on murder or those on drunkenness and disorderly conduct, that lawbreaking is diminishing. It is not; it is increasing, and increasing with alarming rapidity.

Moreover, we are facing to-day not the old-fashioned disorganized forces of crime. Crime in America is developing the way American business developed. The cut-throat competition, independence, and individual methods yield to conferences,

consolidations, and highly organized methods. The bootleg ring of a few years from now may represent a capital investment and political power and interstate activity which will dwarf by comparison some substantial legitimate industries; and the worst of it is that it will be the side partner and protector of gangs of the more serious offenders.

As a man who has been one of the biggest bootleggers in the country said to me, "I don't like to do it, but we have to make trades with the criminal gangs."

He appeared to feel snobbish about it; it was an association which he felt was not quite respectable. I said, "Well, in your business you are training a lot of young men to gun-toting, reckless living, and lavish spending, adventure—lawless life in general."

He laughed.

"There are thousands of them!" he said. "What do you expect? But they won't leave bootlegging to be burglars until our business pays less than it does now. We have a lot of the professional crooks who want to get into our industry." He called it an industry! "It is only the bootlegger who makes a failure who goes into the stick-up and drug-selling game. We are getting a better and better quality of employees all the time, because we have to have 'em. Too much money invested to take risks. Good organization demands good men."

If any one who leads a quiet life and fails to read

the trend of our crime record between the lines of the current press reports wants to know the rise in our crime tide, it is possible to find few dependable figures. Statistics on American crime, as Chancellor Herbert S. Hadley, who has been investigating, wrote me, are as scarce as hens' teeth.

There is no uniformity in the existing statistics between state and state or city and city. The co-operation between community and community and even between states is almost nonexistent.

In Europe, where nations are units in fighting crime and criminals, the officials are shocked when they learn of the almost utter failure of law-enforcement authorities in the United States to co-operate. We have no matured national agency or clearing house for criminal identification, no standardization of methods, no adequate exchange of information; and in some cases where two big cities are close together, the only possible way for a police chief in one to avoid being run out of business in thirty days is to bid against the chief of police in another city in trades with the crooks and their rings—trades not made for corruption or personal gain, but made to prevent a situation where one city gives them protection in exchange for the agreement that they will go to work only in the other city. All this lack of coöperative organization is reflected in the absence of statistics and of figures which can be compared.

Lacking figures, the average citizen listens to his

mayor, his board of commissioners, and his police chief. These gentlemen are usually loath to expose the increase in crime. It takes months to learn, as I have learned, to take information about our crime record and then discount and interpret it in the light of other knowledge.

The average law-enforcement official will say for publication, "We have crime under control. Of course there was a crime wave. It was due to the war."

This is unadulterated nonsense. Among the hundreds of police, judges, criminal lawyers, and criminals to whom I have talked, the majority began by filling me with their "case." They told me what they would not tell someone who might some day quote them and embarrass them.

For instance, I said to one chief of police, "Is this city any dryer than it was five years ago?"

"Oh, certainly," he said, beaming. "I just told one of our local papers yesterday about that. We met the bootlegger and we have beaten him."

"Then how do you account for the fact that your disorderly conduct arrests have nearly doubled in five years and are going higher?"

"That's not drunkenness—er—that's disorderly conduct—that's different," was the official's reply.

"Look here, chief," I replied, "you and I know that in this city you bury the figures on drunkenness in the figures on disorderly conduct. Furthermore, you and I know that in the past the figures have

been reduced by omitting to copy some cases off the blotters."

He looked at me searchingly and then said, "Well, all right. Can I play truth with you?"

Out of all this falsifying, out of all the slim and undependable crime statistics, it is possible to salvage certain convincing gauges of the steadily rising crime tide. Sometimes these figures have to be taken city by city. Sometimes collectively they show cause for a shudder to pass across the country from Maine to San Diego, California. Homicide, for instance, is considered an important enough affair so that rough statistics are obtainable. Burglary and robbery insurance rates are something of a measure of the crime tide. Statistics of the number of arrests are often worthless because an increase in arrests may not mean more crime; it may only indicate that the police are more efficient. And if arrests are fewer, it may not mean that a tide of crime is receding, but that a new crime method has been invented, new corruption has been introduced, or that the police are no longer keeping up stringent measures.

"It is as silly to judge the amount of crime by arrests," said one detective sergeant, "as it would be to judge that there were no rats in a house because no traps were set."

The best figures obtainable on homicide in the United States disclose that in comparison to European countries, and especially England, our regard

for human life has fallen very low. The murder statistics not only disclose this but they disclose also the reason for it. They disclose that the man or woman who looks forward to committing murder has an excellent chance of wriggling out of any punishment. This fact will be set forth here with reluctance, because it tends to encourage the hope of murderers to escape punishment. But the fact must be faced if we may hope that an awakened public opinion will smash down the fabric of legal nonsense, expert testimony of purchased psychologists and alienists, technical loopholes, delays, and corrupt trial methods which allow 90-odd per cent. of wilful murderers to walk out of the courtroom to call a taxi or receive a short vacation in a comfortable penitentiary.

If one desires a rough measure of comparison between our killer record and that of England and Scotland, let it be remembered that manslaughter in Chicago and New York is going on merrily a little faster than the rate of one a day. In London the rate is something like one a fortnight. I have before me the report of the city constable of Edinburgh, Scotland, for 1924, which shows that last year that city of about 500,000 population got along with one murder, one homicide, and one case of criminal negligence resulting in the charge of manslaughter.

The whole of England and Wales during 1923, with a population of little less than 40,000,000, had

less than 200 killings. St. Louis all alone, without help from any one, did better than that in 1924.

If you lived in a city of Scotland the size of Jacksonville, Florida, your chances of escaping death by the hand of another would be about 142,000 to one. In Jacksonville itself your expectation of escaping lead or steel would be less than 2,000 to one.

Philadelphia has had a murder record far above the figure for the whole of Canada!

It is sometimes said that we are still living in a pioneer, or unsettled, country, and this accounts for some violence. In Western Australia the police commissioner's report for 1924 shows two cases of murder in a population of 350,000. The report for South Australia discloses five cases of manslaughter, murder, and attempted homicide. Trenton, New Jersey, with a fraction of the population, did better than those two districts of Australia from which I received current reports.

Our killing record as a nation, however, is best exhibited in the grand total. The committee on law enforcement of the American Bar Association in 1923 pointed out that nearly 100,000 citizens during a ten-year period had "perished by poison, pistol, knife or other unlawful and deadly injury."

"In no year during the past ten did the number fall below 8,500," says another Bar Association report.

The figure climbs every year. In 1923 there

were no doubt 10,000 homicides in the United States. In 1924, more than 11,000.

In European countries, on the whole, the tendency is away from savagery; the number of crimes of violence in proportion to the population is decreasing. Not so in the land of the free and the home of the brave.

In the whole of France in 1919 there were only 585 murders; six cities of the United States—Detroit, Cleveland, Los Angeles, New Orleans, Cincinnati and Indianapolis—piled up more than that during 1924.

Then consider this: Where a group of thirty American cities in 1900 showed a rate of five homicides for every 100,000 population, the same group shows a present rate of ten homicides for every 100,000.

How many of the 11,000 murders were solved and in how many were the guilty punished? In the answer to this are found amazing facts, sufficient to indicate why murder has become so common. It has become common because it goes unpunished in our America.

"In London in 1922," said Chief Magistrate McAdoo of New York, "fifteen murders were committed. Only two went unsolved and only one trial resulted in an acquittal."

But in the United States it is probably true that not more than 1 per cent. of murderers pay the extreme penalty.

Chicago is the city which leads the murder record in civilized times. In 1921, according to the Chicago Crime Commission, there were 225 defendants in murder cases. More than three quarters paid no penalty of any kind. Only six received the death penalty. About one fifth went to the penitentiary. In 1922 about 62 per cent. got off, about one third went to the penitentiary. Out of every 100 only one paid the death penalty.

The Bar Association reports that during 1921 there were 260 murders in New York County. In 1921 there were only three convictions of murder in the first degree!

I talked with a pay-off-joint man in Chicago—an organizer of a criminal ring. He said:

"Murder is poor business. It shows a bad gross and net income. But it's one of the safest crimes. The chances are an even break that you will not be found or brought to trial. The chances are nearly 100 to one that you won't be executed. The chances are five to one, even if you get into the pen, you will be out before five years. That's the truth. And the chances are you don't get into the pen, anyhow. You'll go to an insane asylum on the testimony of bought doctors. That's murder in this day and place, my friend. It's not the police; it's the law and courts that does it."

One of our prominent life-insurance companies has made an analysis showing that, in the country at large, for every 146 murders only 69 indictments

were found. Of these 69 only 37 were convicted and only one person executed. It is said that one criminal lawyer, famous as an adroit defender, has to his credit the saving of no less than 103 defendants from the gallows and the chair.

Any one who worries because in this country capital punishment may be based on "an eye for an eye and a tooth for a tooth" can cease from this sentiment. Our system is such that it takes a toll of about a hundred teeth and eyes for every tooth and eye given in penalty for the taking!

Murder goes on, not because the law forbids it; it goes on because our system—not the police system, but the judicial and legal system—holds out promise of immunity to the 12,000 who in 1925 will probably engage in homicidal performance in the United States.

We are indulgent toward such violence. If in Turkey a native population, stung by an alien population which is a breeding centre of intrigue, commits a massacre we thrill with its brutality. But if the same number of American blood citizens of Illinois are shot down in a bull-pen feud and never have to pay any penalty, we never turn a hair. Savagery is obvious only in direct relation to its distance from us!

If we conduct lynchings when we feel like it, because the law is a feeble and hesitant old lady, we fail to compare ourselves with the savagery of China or Africa, where life is held lightly and law lighter.

Passing from killing, let us take burglary. As far back as the year 1915, Raymond Fosdick, in his book on the American police system, shows that London had one eighth as many burglaries as New York. New York City alone had nearly twice the number of the whole of England and Wales. In 1919 Chicago had 2,146 more burglaries than London. Even Detroit and Cleveland can pass London. Each one of those cities can produce about one quarter of the burglaries in all England and Wales.

In 1921 Chicago had almost three cases of robbery with a gun per day. Even in the cases brought to trial, nearly 75 per cent. of the defendants paid no penalty. In the first three months of 1925, there were reported 636 robberies at the point of a gun—seven a day. London's robbery cases run between twenty and forty a year. In 1918 New York had two and a half times as many burglaries as London. In 1915 New York had more burglaries than the whole of England and Wales. In 1919, when statistics were available, there were, says the American Bar Association report, only twenty-nine highway robberies in France. San Francisco had that year 258 highway robberies, Washington 323, Chicago 1,862, Louisville 241, St. Louis 1,087. But France treats violence differently. Instead of letting off 90 out of 100 murderers, France convicted 408 of its 585 in the year 1919, and the same is true of robbery. I believe

the chief reason for the difference between the mild crime record of France compared with our own big carnival is the difference between the punishment and the indulgence of crime.

In Chicago one newspaper constantly has pointed out that the police are busy with prohibition and gambling, neglecting public safety. I asked numbers of sophisticated citizens of Chicago if their homes were safe or if they would go home on foot after ten o'clock. The answer was vehemently in the negative. It was pointed out that gun-death rates were three times those in New York, and it would take a year's investigation to find out how many times the rate in New York exceeded that of London, Paris, Berlin, or Rome.

Why? Because in a city like Chicago during 1923 nearly 50 per cent. of the gun-men cases paid no penalty; more than half the burglary cases paid no penalty and more than 60 per cent. of all the felony cases in Chicago paid no penalty whatever.

I have been in many cities besides Chicago, but the condition is not far different in most of the larger cities in America. The prevalence of crimes of violence is shocking, but not so shocking as the process in the United States by which so large a proportion of criminal guilty manage by delay, technicality, corruption, and the bail and bond system to slide out of punishment.

Even when punishment is meted out, it is of a mild kind. I shall have much to say of this later,

but it is true that many a criminal lives in a penitentiary in luxury which cannot be enjoyed by the family of the policeman who spends days and risks his life in the arrest.

In one American city, at the end of the year there were 130 defendants in murder cases whose trials were pending, and nearly one third were out on bail!

There is another measure of the crime tide in America; it is the insurance rates applicable to burglary, robbery, and bank hold-ups. The wise police chief everywhere knows that burglary no longer holds its old lure for the wise criminal. The whole course of the wise lawbreaker is away from breaking and entering, and runs toward the outdoor activity of hold-ups or the immense business of organized blackmail, which promises a tremendous and glowing future. But, none the less, bank robberies and burglaries had increased so fast in 1924 that the press reported that the rates of insurance have jumped in the Middle West in varying increases from $33\frac{1}{3}$ to 150 per cent. I am told that burglary insurance countrywide has gone up about 50 per cent. in ten years.

A new development of organized crime has exploited business-house and ware-house robberies so that rates have advanced 100 per cent., and on silks and fur stocks they are even higher. The business of warehouse or wholesale-house robbery

has become an expert, almost nationally organized business. It is so well done that cases are not wanting where \$30,000 or \$40,000 worth of stock has been extracted by motor trucks in the five minutes between the ringing of the protection-system alarm and the coming of a patrol.

A statement by the manager of the protective department of the American Bankers' Association gives some idea of the various estimates of the cost of crime in the United States. He says that money losses from crime in 1924 amounted to \$4,000,000,000. When, however, there is added to losses the cost of maintenance of police, criminal courts, prisons, and places of detention, the crime cost mounts, according to various statisticians' estimates, toward \$10,000,000,000.

In an estimate based on an investigation made for the New York Police Department, and now in my hands, it is quoted:

The annual crime loss and penalties paid for criminal operations in the United States was three times the national budget during 1923, and more than three times the customs and revenue receipts for the same period.

This investigation also yielded the following statement:

The annual cost of crime to an American city the size of New York would be about \$558,000,000, and the direct financial loss to the people probably would exceed \$180,000,000.

The report continues:

Based on reliable statistics, about 200,000 persons are under restraint as prisoners in the United States. This, however, represents only about one fifth of the criminal population. If the annual productiveness of an individual is estimated at \$1,500 the industrial waste represented by the criminal population is \$1,500,000,000 annually.

As I have pointed out, the statements of those who would like to prove that prohibition has emptied our penal institutions, whether we wish to believe it or not, will not stand examination. The Census Bureau, in its report on the number of prisoners in the Federal, state, county, city, and other institutions of correction, showed a marked increase between 1917 and 1922. Indeed, there are no conclusive statistics to show that, apart from other crimes and misdemeanours, drunkenness itself is not supplying these institutions with the old quota. In New York City, for instance, after a gradual reduction in the arrests for drunkenness to a low figure of 7,028 in 1919, there began, unfortunately in the face of prohibition, an increase. In 1920 there were 7,804 arrests for intoxication; in 1921, 8,169; in 1922, 11,402; and in 1923 and 1924, nearly 14,000 a year. In Chicago, one of the cities where the drunkenness cases are described and merged by disorderly conduct, the total arrests for this heading were, in 1919, 38,633; in 1922, 67,694; in 1923, 76,419; and in 1924, 90,852.

When I showed these figures to the prosecuting officer of another great American city, he laughed. He said:

"The increase perhaps is due to a new policy of law enforcement—the one of being more concerned with preventing the gun-man from holding up a drink than preventing him from holding up a citizen! The police, like all of us, have only twenty-four hours a day; and between the traffic work brought on by the automobile and the new reforms, there is bound to be less time to spend on the suppression of real crimes. Unless we change that policy we are in for ten or twenty years when the United States will be a criminal's paradise."

After some months of investigating, however, it is not the amazing and grotesque and menacing and rising crime tide which creates the deepest impression. Nor is it the unrepressed wildness and violence which appear to be saturating even the classes not professionally criminal. On the contrary, it is the tremendous advances being made in the organization of crime, of which the average citizen has even less knowledge than he has as to the facts of the crime tide.

We have come nearer and nearer to a point where our fight is no longer against the individual criminal but is becoming a losing conflict with a highly organized system. With this system, stupidity of law-making, bureaucratic law enforcement, the complete ignorance of the public, silly court

rules and sentimental bail, parole and pardon systems have no chance against a large capital investment in crime, a perfectly oiled partnership between bondsmen, some criminal lawyers, some political bosses and the "incorporations" of crime rings.

Judge Dike, speaking before the American Bar Association, said: "The methods and principles of big business have been adopted by the criminal world."

He knew, as I know, that so great is this line of development in our national crime system that it is with some hesitancy that any one sets forth the picturesque facts. Behind the scenes, where the average man and woman do not see it, there is a dramatic and almost unbelievable story of the growth of the criminal "corporations."

The measure of the state of crime organization is usually the amount of money invested in the "business." The extension of the organization beyond any one city to a group of interstate cities, sometimes widely separated, is usually in proportion to the length of establishment of a particular form of crime and to the necessity of carrying on wide operations.

If the average person, being innocent of true conditions, reads of a big silk or fur burglary, he has in his mind a picture of four or five tough-looking customers sitting in some cellar around the stub of a candle. They determine that they must go forth to get money in a burglary. Skulking in the shadows,

they glance up at a store or warehouse. One says, "That place looks as if it might yield something." Another produces a jimmy and they go to work, with one of their number ready to blow a blast on a whistle if the patrolman comes along.

But nothing of this kind happens. The truth in some ways may be much more dramatic—dramatic as the efficiency of big business is dramatic; so dramatic that before I undertook this investigation and had confirmation from a number of police officials and demonstrations from some of the criminals themselves, I was inclined to disbelieve. Do not disbelieve, however, that many crime rings have reached a state of organization that makes the citizen's conception of crime ridiculous and results in blame being put upon undermanned police forces which are without power to meet the organization system of crime or to obtain adequate punishment for those whom they arrest.

In your case of the fur robbery you may begin the picture with an office in a fairly respectable office building. On the door there is printed in gold letters, let us say, Texas and Miami Real Estate Company. This is not a real-estate office, however. The lean business man who sits behind the large golden-oak desk with a telephone and a stenographer is not a real-estate man. This place is what is known in some cities of America as a pay-off joint; the man behind the desk is the manager for a group of men who are engaged in the lively business

of wholesale-house, fur, and silk robbery. The expression of any one of them who is attached to this particular organization is that he "works out of Joe's pay-off."

Joe, the manager or proprietor, has many functions and they are not attended with great risk. Newspaper reporters are fond of describing Joe as the master mind. But Joe may have nothing of a master mind; he may only be a good criminal business man. It is his job to superintend, to plan the work ahead, to get orders for goods, and set forth the programme on which the "workers out" are to proceed. He divides the profits among the workers, taking care to collect the kick-in to cover the overhead expenses and his own large profits. He arranges with the particular garages where fast cars and motor trucks with removable license plates can be safely engaged. If it is necessary to have an inside man planted on the wholesale-house victims, or to corrupt one of their employees, Joe arranges it. If protection can be bought, Joe is the discreet negotiator. If trouble comes, Joe is the man who has some bondsman on call who will bail out a burglar almost before he has asked the guard at the police station for a cigarette. Joe knows a criminal lawyer. Joe is the man who knows the political bosses to whom certain judges in the county owe their seats on the bench. Joe is the general manager.

If you met some of Joe's "workers out," you

would be astounded to find them for the most part young, usually well dressed, well groomed, and sometimes fastidious. One or two might take heroin occasionally, but it would be rare that any drank to excess. There would be among them some with prison records, some with a worldly experience and a hardness picked up perhaps as bell hops in hotels, some who had just gone wrong in high school. Of course, there would be some who were not fitted for the drawing room; but the important places would be filled by young men whose appearance, expression, and contour of features would perplex any of those scientific old gentlemen who talk about a "criminal type."

When Joe had laid his plans for the robbery of \$50,000 worth of furs, he may have done so because of a specific demand from some fence in another city. A fence is a receiver of stolen goods, but the old-time fence which concealed stolen goods, or even advanced money upon them, has been supplanted now by a much more businesslike institution. There have been cases of fences which maintained a sales force in the South to take orders for a variety of goods from small dry goods and notion stores—before the goods were stolen. Then the fence would arrange with a pay-off joint to fill the order and the pay-off joint would go after so much fur, so much job-lot taffeta silk, and so forth. Joe provides the skilled mob, the motor cars and trucks. He draws together information

as to the kind of goods consigned to and received by a wholesale house. He buys information of their location, whether they are protected by a night watchman who may have to be "rubbed out" or by a protective signal system. The whole robbery is organized with painstaking care. It is a highly technical business. Capital has been invested in it. Not only the success of this particular robbery but the future of the business is at stake.

And Joe knows that the day of cutthroat competition between individual and irresponsible criminals is passing. Not only that, but he knows that just as in the development of American big business, the time comes when the investment is so large a stake that conference and coöperation are the watchwords. Joe in his wholesale and warehouse robbery industry may need the support of the bootleg ring or the blackmail ring. He may have to trade something with others. And so gradually even the tong wars within these rings come to an end.

The picture and its promise are neither overdrawn nor pleasant. There is certain to be alliances between rings. A state senator in the West has assured me that the bootleg ring, which has already elected a member of the legislature, did so not to have prohibition relaxed but to have it tightened in such a way as to eliminate what the bootleg ring considers irregular traffic, which interferes with legitimate profits. Unfortunately, a gambling ring

was associated in this representative's election. And now the honourable legislator is much put out by the demand of the gambling ring to secure various appointments to offices and other favours. But there will be no noise in any case. Too much money is invested. The rings can afford to maintain huge funds to influence government, but neither can afford to risk its huge stake and its carefully built organization by a quarrel.

"Reluctantly enough," said one police chief to me, "I can see where we are heading for. I am a prohibitionist myself; but of all the organized criminal business, the bootleg and blackmail organizations are destined to develop the most and have the most money. The investment in the bootleg business is already stupendous, and you can trust it to take care of itself. I prophesy that in five years it will be an organization such as this country has never seen. The worst of it is that it ties in, because it has to, with all the rest of criminal operations. A kind of blackmail will put pressure on the bootleg ring to protect the pay-roll holdups, the burglars, the bank robbers, and even to provide the means for murder trials to be fixed."

The tragedy of this great American scandal is the ignorance and the lethargy of public opinion. If the people would think and act in concert, it would be possible to take the crime bull by the horns. Respect for law is to-day the greatest necessity of the

United States. My purpose is not merely to expose a skeleton in our closet. I want to show how that skeleton can be cast out.

It is almost idle to repeat over and over that we must respect the law. Respect for law requires enforcement methods which are something other than ineffective.

CHAPTER II

WHY WE HAVE CRIME

IT IS fashionable among our intellectuals to say that our crime is the result of the war. The professorial minds like to think that the men who went away tasted blood and violence, and also the pain of discipline, from which they were inclined to escape when the war was over. They say that the men at home who were restrained from blood and violence wanted their turn at it. But a sensible citizen wants facts and not theories to explain why we have crime. The end of the war did bring a certain let-down of morale and a good deal of unemployment. It probably had the same degree of effect to bring about a crime wave as a hard winter during an industrial depression. The statistics and my investigation in the United States, however, do not reveal any important crime wave. What we find is a crime tide. It has been rising more or less steadily since 1900.

The menace of the breakdown of law, order, and enforcement of law has menaces as yet unweighed by the average citizen. The lawlessness in the same America which preaches to Europe, compared with the more law-abiding spirit in other civilized

countries, creates or ought to create a feeling of shame. In a nation filled with conduct-crusaders, and with passion for lawmaking and for trying the impossible task of extending the functions of government to the meddling of the busybody, we at least need an equal zeal for the effective enforcement of normal laws. If we have made an impossible task by trying to revise human nature on the statute books, surely that is no reason why we should neglect to put into effect even that degree of law enforcement which protects a civilized people against murder, robbery, disorder, fraud, and looting.

The growth of murder in America to some 11,000 in 1924, the doubling and tripling of burglary and robbery insurance rates, the absurd sentimental protection and pardon of violent and impudent wrongdoers, and our failure to stop crime because we fail to punish it lead directly to an investigation of these, and, indeed, all the causes of our crime tide.

Why is America the criminal's paradise?

Why are we becoming the breeding ground for lawbreakers?

Before it is possible to treat the disease, it is necessary to apply the methods of diagnosis.

We have had a carnival of sentimentalism about the criminal and the lawbreaker. Some of our zealots have prescribed more laws of restraint and interference and merely added unnecessary personal

prohibitions, certain to be broken, so that they make lawbreaking even more widespread. Some of our doctors have deluded us into the idea that all crime is caused by adenoids or glance abnormality, so that any criminal can regard himself merely as a very sick man. Some of our alienists and psychopathic experimenters have made it possible for every highwayman's lawyer and every murderer's old mother to talk about the "unfortunate abnormality of my client" or "the complex which has seized my poor boy's mind."

The amusing side of all this is that this kind of "scientific treatment" of the causes of our crime, though it gives to our criminals endless comfort, also gives them endless amusement. I have seen enough of that professional class with some degree of human intimacy to know that there is no class so skilled in the gentle amusement of giving a listener an earful. It takes all the grains of salt that one can collect to offset the wily and whimsical adeptness with which the hold-up man, the pay-roll robber, or the automobile thief will fill the respectable members of society with goose stuffing. The zeal with which an unsoftened offender can be found reading the Bible, the earnestness of reformed letter-writing, the variety of imagination in painting a life story to slow music, especially before a parole board, cannot be equalled on any stage. Only when an investigator is believed to be "regular" is the cover taken off. On such an occasion a St.

Louis confidence man told me with a great bitterness about the injustice in the world, that if he could only afford to hire experts if he got into trouble nothing could convict him.

"But there's one thing a man can count on if he knows how to work it—there will always be somebody to say his head was dropped on the floor when he was a baby; he can hire a poor old mother if he needs her, and half the time the newspapers will show him up as a fiend the first week and the next week as a poor feller battling for life and freedom."

I do not wish to be understood as decrying the attempts made by science, medicine, the psychiatrists, and the churches to diagnose and cure whatever psychical, mental, or spiritual ailment is suffered by individuals. The work is an important one, and over long periods will yield useful insight and methods of treatment. But let no citizen of the United States who sees lawlessness as it is, the menace to our institutions and our youth, as lawlessness promises to be, stop just now to fool around with adenoids, glands, complexes, and the other misfortunes which have afflicted in their mysterious ways the life of the man who has just shot the cashier and beaten the face of the stenographer with the butt of his pistol.

My attempt to find the answer to the question of why we have crime has been confined to finding causes which we can deal with, if we want, to-day.

Lacking any sufficient statistical analysis of criminality in the United States, nevertheless it can be shown easily enough that one of the first causes for our crime is immigration. This is the plain statement of a truth often expressed by the more cautious and intellectual phraseology that "while the population of England is homogeneous and law-abiding, our population is heterogeneous and is not law-abiding." These learned phrases mean nothing more than that we have had drained in upon us in an unselected stream of immigration a vast number of ignorant and vicious newcomers who either do not understand our life and laws or do not want to understand them, and succeed in transmitting that unwillingness even to the children for whom we provide free schools.

This fact, unwelcome as it may be to respectable and useful immigrants, is borne out, not only by figures, but by the testimony of the hundreds of police officials, judges, wardens, newspaper reporters specializing on crime, and even the criminals themselves with whom I have conversed. It is a fact that goes without argument wherever crime is dealt with intimately. Whenever an analysis is made, there comes confirmation of it. A little after the first three months of 1925 had passed Chicago had had 100 gun killings—more than one a day. Without going into a racial analysis of half these killers, it is sufficient to say that 50 per cent. of all were committed by two non-American groups, although

these two groups are not 7 per cent. of the total population.

I have collected from five American cities the data on 125 persons charged with murder or manslaughter—twenty-five random cases from each city in a specified period. The total of white persons so charged not foreign born or children of foreign born is only twenty. Italian born and the children of Italian immigrants scored twenty-six. Russia furnished nineteen. Various countries of Central and southern Europe, Greece, Austria, Rumania, Bulgaria, and so on, together furnished thirty-five; Negroes, thirteen; Ireland, England, Scandinavia, Germany, and France, and one oriental country together, twelve. If any one cares to figure out the comparative strength of each element in our population, these figures are immediately convincing. A word of warning is necessary against statistics which measure natives against "foreign born" without including the children of foreign born.

A study of the total arrests for felonies—serious crimes in American cities of the character of New York, St. Louis, Detroit, Baltimore, and the like—will show that the native population, being about 75 per cent. of the total, is chargeable with only about 50 per cent. of the arrests, although this 75 per cent. includes the children of foreign born. Russia, Poland, Italy, and Greece are conspicuous examples in which their contribution to the total population is much less than their contribution to

crime. While the German, Scandinavian, and English record is excellent, a country like Lithuania will contribute less than 1 per cent. of the population and 2.3 per cent. of the felonies.

It is a recognized fact that we have taken in a stream of criminal material from nations where the climate, the racial background or centuries of oppression has provided explosive, passionate, or sneaky natures. The individuals come to America with exaggerated ideas of the liberty which awaits them. A total misconception of their escape from old restraints in their native land obsesses them. The only thing the lowest understand is punishment for lawlessness.

I stood behind a detective who had entered an all-night lunch room. The place was filled with a riff-raff which happened to be of a certain foreign blood—criminals, sneaks, heroin users, and painted girls. Because the detective insisted on taking a concealed automatic from a cadaverous young man, the young man's companion arose in indignation.

She was not more than sixteen, half clad and cerised of lips. Her little lean arms were bare, her neck beneath the shock of bobbed hair was thin and descended to a white flat chest. She was suggestive of tuberculosis, but also of childhood—a little ailing girl. She thrust forth her manicured, enamel-nailed hands like talons. Her brown eyes filled with vicious lights and her voice cracked in her piping soprano of anger. It was a voice speaking for

thousands and thousands of others and expressing the essence of foreign misconception of America.

"Leave him alone!" she snarled. "He's a 100 per cent. Americun now. Ain't this a free country? Can't we do what we like? My father's got his citizenship. If I had the gun I'd blow yer eyes out, officer or no officer! Liberty? Liberty, my foot!"

In a number of the larger cities I found a frank recognition by police chiefs, detectives, and uniformed men that certain of the foreign groups were incorrigible trouble-makers. Detectives who have themselves descended from some of these races near or on the Mediterranean will be outspoken about the difficulty produced by their own kind.

"Bad stuff is bad stuff," said one. "It's all right to feel sorry for them. It's too bad they didn't have a chance since some centuries. But I'm sorry for them the way I'm sorry for a mad dog. You can be sorry for him and yet be sorry he lives next door. You don't arbitrate with him; you give him his. You can be sorry for a rat, but the trap is the only place he will behave. That's all there is to it."

Of course, that is not all there is. There is the consideration that immigration even from the bad-stock races is not exclusively bad stuff. There is the consideration that education and the advantages, physical and spiritual, of the New World often will reestablish the better side of degenerated individuals and even produce admirable contributions to our civilization. There is the considera-

tion that failure to understand our best American conception of liberty, failure to know our customs, even those of sanitation, cleanliness and personal or social customs, leads foreigners and sometimes their children, brought up in foreign colonies in our cities, to misunderstanding, and at least minor breaches of the law. The voice of the little painted girl was not wholly vicious; it expressed a sincere protest against interference with what she and others conceived as the rights of citizenship. When language differences separate the foreigner from the authorities, all the misunderstandings of one by the other are multiplied.

But none the less the Southern European who huddles in colonies in our cities, whether to blame for it or not, becomes a recognized menace to law enforcement; and in his isolation from our national life breeds a second generation with its full quota of gunmen, killers, hold-ups, bootleggers, blackmailers, and robbers.

A municipal judge was held up in a city parkway. I asked him about the nationality of the "hoists."

He said, "I couldn't see, but they were boys—either Poles, Letts, or Italians."

I have visited too many pool rooms, gambling places, dance halls, garages, and restaurants where the bandit type, the heroin user, the automobile thief, and the other crooks idle away their time not to know exactly what the judge meant or not to know exactly what the detective meant when he said

the question was not one of the community hating the rat but of confining or exterminating him by force of self-protective necessity.

The parents of the fifteen-year-old children who are given samples of "snow" by the foreign dope peddlers to create new addicts will agree with me. In fact, all those who have seen corruptions of various morals injected from the foreign or Negro crime groups into native or white youth in our cities may be willing to maintain good will toward the decent immigrant, but will wish those we take in to be carefully selected from now on and will insist on making the bad actors walk a straight line by a discipline far more inexorable than our blithering sentimentalists would apply.

We need to do a whole lot more for our immigrants. We probably should teach them the philosophy of ethics and of American institutions; but the first thing to teach them is that lawbreaking brings a swift and heavy hand, and then be sure that the hand is swift and heavy.

In considering the difference between the problem of law enforcement in the United States and the problem in England, France, or Germany, it is necessary, as the police commissioners so often state, to face the fact that we are not a solidified people. London has less than 4 per cent. of foreign born and the immigrant who gets into England gets in through a fine sieve. Berlin has about 3 per cent. Paris has about 7 per cent. I have been

told that Rome has less than 2 per cent. But in many of the large cities in America more than half the population are foreign or the children of foreigners. New York has more than two fifths actually born abroad, and almost all were unable to speak English on arrival. The situation is one in which swift, sure law enforcement is more needed in the United States than in any other country in the world. And we have less of it!

Next to this source of crime, the cause which I find impresses more of the police, judges, criminals, and observers is one which has just begun to enter their reckoning. Most of those who did not express themselves responded the moment I stated it.

I said, "One reason for the crime tide is that we have become an Arab state."

We have lost much of the responsibility which comes from being settled for life in one place. Often one can go out to dine in New York among distinguished New York residents and not find a man or woman who was born in New York. Our swiftly growing and exhausting cities draw leadership from the "provinces." Life itself in America has become a nomad adventure. Two generations ago a large proportion of men and women stayed in the place where they were reared. Movement was more difficult. Persons became hitched to a community. Misbehaviour was known and the record of an individual, good or bad, dogged his life. It was not easy to turn one's back upon responsibility;

meeting responsibility brought trust and honour, and failing to meet it brought disgrace. The neighbours knew a person; it was difficult to fool them.

To-day the seethe of movement is prodigious. The town and city are mere breeding nests from which the young fly at will. And though a few years ago the adults who went from place to place for employment were the hobos, to-day a chemist, a superintendent, a skilled foreman, a sales manager may be promoted by merit in our vast industrial mesh, from Akron, Ohio, to Birmingham, Alabama, and thence to Seattle, Washington, in no time. He and his family go about like bedouins, and the folding of his tent and his stealing away are no longer a cause to inquire as to his failure but rather as to his success. When the meritorious are on the move, there is no reflection upon any one who moves. The family who would hide a disgrace and turn their backs upon any locality can turn up in Los Angeles or Boston without any comment. People who wish to chuck the past call for the moving van and buy a railroad ticket or roll away for ever in a touring car, sticking their tongues out at the old home and neighbours. When they turn up in a new place and take a lease from the real-estate agent, the new community is so used to transients that no inspection of newcomers is considered worth while.

"All this movement has increased the general irresponsibility of the age," said one police chief. "Movement used to mean emergency. It often

meant escape. It certainly did not spell 'home' or 'stability' in the old days. But now the respectable people of the country go about and the fugitives are lost among them."

He showed me a list of the wanted. Among them were a mail robber and a girl who had held up a train. They were said to be touring in a car. Another was a blackmailer whose habit is to assume the conversation of an insurance solicitor and to engage first-class apartments in various cities. A long list of men and women were shown to be moving about in luxury from place to place. When I returned from diplomatic service in Italy I occupied an apartment on Gramercy Park, New York. Another apartment on Gramercy Park was occupied by Gerald Chapman, who broke out of the prison at Atlanta, where he was serving a long sentence for a desperate mail robbery, and not two years later was sentenced to hang for a murder. Not only has the pressure of responsibility of an individual fixed in a community been removed by our nomad life, not only has the stabilizing influence of a constant home training been taken away from children, but it is no longer possible in this camping-out movement to know whether the man whose feet we hear walking overhead will cut our throats or corrupt our sons and daughters.

"And then there's the automobile," said one police chief, speaking for many. "How many families there are where the mother and father jump

into the car and go out to the road house for cocktails, leaving the children at home. And then when they are tired of it, or can't stand it any longer, the children take the car and go out to the road house for cocktails. You can see the pictures of the whole family in the car going out to strip the woods of the wild flowers; but I tell you I know the history of too many wild boys not to know that whatever takes parents or children out of the home, unless it is handled right, makes more trouble and less home."

Another man, the retiring head of the detective bureau in one of our large industrial cities, said:

"It's not open to argument that the criminals we have to deal with now are boys. It's nothing to find a lad of sixteen doing stick-ups with an automatic. It would surprise you to know what the lads and girls of good families are heading for. And it's the lack of home that does it. You know this old stuff about youth getting out of control of the home, and parents saying there's no use to put up a fight. I tell you it's not youth but the home in America that's gone wrong. Porcelain bathtubs and radios, vacuum bottles, and so on, and even automobiles for the poor. It all looks like a great civilization. But the home—the old home, with the whole family in it at night, has flapped away. Everybody is excited, everybody is on the move, the move, the move! That's one cause of crime in America."

I have used the expression "the age of irresponsibility." I will set forth its effect upon youth in relation to crime more fully; but just now it is sufficient to point out that those who come in close contact with crime and criminals are well aware of the effect upon lawbreaking which proceeds from the kind of soft and wheedling peevishness of a degenerate crop of literature of discontent. A city magistrate in New York said to me:

"One book shows a woman who has to live in a small town and does not like it. So she runs off with a neighbour. She is the heroine of the book. She is a criminal. Another book exposes the domination of a spirited girl by her mother. She finally shoots the friend of her mother who encourages this domination. She is the heroine, but a murderess. And so it goes. If I go up to my neighbour's daughter and say, 'Poor thing, life treats you unfairly. Why don't you commit adultery or use the knife?' and she does it, I am put in jail as an inciter to crime and an accessory; but if I write a piece of lawbreaking literature which says this to a thousand shopgirls or industrial workers instead of one, I am only a best seller. We are getting soft."

This realization of getting soft is one becoming convincing to observers of the cause of crime. America has yielded too much resource too suddenly. The hardening processes of struggle to succeed, of work for daily bread, no longer are sufficient to give enough moral sinew. The son

of an impoverished widow who has been supported by a relative of mine for some years applied to my relative for a position.

"It is true I do not live directly in the town where your mills are," said he; "but I have bought a car."

The kind of quiet wrestling with life which produced President Coolidge's father and the President himself produced a fibre that mere advantages and luxuries will not beget.

"One may want to find a big executive downtown in New York these days," said an old industrial leader who really built an industry and did not merely ride into prominence on its back. "Well, if it's before ten or after three, the young Napoleon has either not come in or has gone for the day. If it's winter he is at Palm Beach; if it's summer he has just run over to Europe. And these young men are bored, too, and complaining. Men like Hill, Cassatt, Carnegie, and my old friends were down sometimes at 7:30 and were anything but bored. And we didn't need personal publicity agents in those days!"

Whatever may be the fact about the loss of stalwart quality in leadership at the top, the police will tell you that to-day there is a dangerous claim entered by the new generation. It is a claim for the right to enjoy every luxury which a complex civilization has devised, and a claim to a measure of idleness and excitement. This claim is a lawless claim.

It is an attempt to beat the rules. The right of the individual to take gains without labour, adultery without conscience, freedom without responsibility, has become not only a practice but through the literature of discontent a definitely absurd philosophy of life.

"Well, that's at the top," said a Western prison warden to me. "But it reaches to the bottom too. It is contributing a new class of desperate, rotten-hearted criminals to our penal institutions. They are our youth; you might say our boys and girls. That's what we are getting now."

A recent investigation of the integrity and morals in New York City schools was enough to shock the investigators. Into what fetid jelly the boredom of luxury, ease, and idleness may run when egged on by popular degenerate literature, preaching emancipation from all law under cover of pity and understanding and realism, is exemplified by the Loeb and Leopold fiasco.

Unfortunately our lack of rigour and backbone, our softness and philosophical sentimental nonsense not only leads to lawbreaking, but it leads to condoning crimes after they have been committed.

This is a police byword in various parts of the country to-day: "Oh, sisters, stop sobbing for the criminal; sob for his victim."

If there is anything which tends to break down the morale of all our law-enforcement agencies, it

is to find that punishment is interfered with by a lot of professors, social workers, amateur philosophers, ladies' sympathy circles, and rescue leagues.

"Love," said one of these bearded gentlemen who unconsciously are not only friends of criminals but friends of crime—"love and not fear will dominate the world."

"It may be so," I replied. "But for an immediate deterrent of crime there is nothing like the fear of punishment. And unfortunately we must act not in 3925 A.D., but to-day. Given a fixed amount of criminal tendency in any country or community, inexorable swift punishment, and nothing else will determine the amount of lawbreaking and will establish the authority of the state. And it is not your love of the criminal which interests us; it is whether he has love enough for you and me not to leave us in a pool of our precious loving blood."

This concern for the criminal rather than concern for the society he has defied, the clamour for saving him rather than for the preservation of law enforcement, the emphasis upon the tragedy of the criminal's fate rather than upon the fate of the victim, and the authority of law, have become examples of grotesque soft thinking.

I have in my file a newspaper clipping regarding three young bandits who were executed in Sing Sing Prison, New York, on April 30th. They were executed for a murder for which they had adequately and maliciously prepared in the course of

planning a bank-messenger hold-up. They were three utterly worthless, menacing members of society. The article was inspired by those who are interested in one of the movements to keep youth out of trouble. Read the expressions from the spokesman:

What should the community do to prevent such tragedies as that at Sing Sing Prison on April 30th, when three young bandits were put to death in the electric chair?

A week, a month will pass and all will be forgotten. There is one salutary note. Perhaps it is from the pen of a man about to meet his doom or from the chaplain who attended him in his last hours. It is always the same: "Would that a kinder heart, a firmer hand, a more understanding mind take interest in the culprit."

What about the murdered bank messenger? Perhaps if his voice could be heard it would say:

"The only tragedy which took place to my mind was when I, going on my honest errands, was blown down by lead. In light of the murderers who go unpunished, this execution was not a tragedy but a triumph. I, too, will lift a salutary note. Perhaps it may come from an innocent citizen who has met or is about to meet his doom, or from his mother, wife, or children who are bereft: 'Would that a more rigorous public opinion and a stricter, unrelenting law enforcement and a less softly sentimental failure in the past to punish crime had deterred the three insolent foreign defiers of humanity and of America who brought me to the grave.' "

When only one out of a hundred killers is paying the death penalty, the discussion as to whether capital punishment is brutal hardly appears of particular interest. James E. Baum, manager of the American Bankers' Protective Committee, considers that any one who is asked if he believes in capital punishment may well answer, "Maybe I do; when does it begin?"

The wailing about young men who are serving time and the tears for those who pay the death penalty are not a useful contribution to crime prevention. It is less pertinent to ask, "Do you believe in capital punishment?" than to ask "Do you believe in murder?" It is useful to ask whether we believe crimes of violence should be punished, because that question actually has arisen. It is less useful to ask whether we believe criminals who get into our penal institutions should have steam yachts. Herbert S. Hadley, formerly prosecutor and Governor of Missouri and the plain-speaking member of the American Bar Association's committee to report on defects in the administration of justice, says:

It is my judgment that of those committing major crimes, such as homicide, burglary, robbery, assault, and the like, not one out of every five is adequately punished.

The statistics obtainable bear out this statement. When city records show that half the violent offenders escape arrest and half those arrested escape conviction, and that two thirds of those convicted

are sentenced to inadequate punishment, and that half of those who are sentenced are coddled by the sentimentalists, it is sensible to jump away from the criminal-coddling business and give our energies, not to excuse and forgiveness, but to punishment.

No one wishes brutality in our penal institutions. Commissioner Richard E. Enright, of New York, said to me:

“Granting, however, that a criminal is entitled to proper physical care and that mere cruelty is inexcusable, it is absurd for society to employ police and judicial systems to punish and then wipe out the punitive effect.”

In the report of Enright for 1920, the man who has done so much for national and international co-operation between police departments writes:

I cannot refrain from some reference to the manner in which avowed criminals are dealt with at the present time. Jails and penitentiaries were feared at one time. That is no longer the case, for, as the professional criminal well knows—and as he informs the inexperienced aspirant for infamy—they have degenerated into a sort of sanctuary in which the practice of coddling and pampering the lawbreaker and the pervert has been reduced to a science or a fine art. A sentence to one of the penal institutions of the state is now looked upon by the lawbreaker with something approaching tolerance—a little annoying, perhaps, as interfering with customary routine, but on the whole as a species of compulsory vacation during which he can recuperate.

The same view is held by police and criminals all over the country. Several prisoners held for trial have said to me in substance:

"Oh, well, I'll get mine—two or three years. Good behaviour, women on the parole board; say, altogether fourteen months. Not so bad in the penitentiary at that."

Another—a gunman—in order to explain to me, asked me: "Have you ever been up to some of them training camps for millionaires? They pay to get ordered around, take plenty of exercise and plenty of rest and eat plain food. There isn't much difference in a penitentiary, except we get moving pictures."

No one wants the discharged convict, the jailbird, to be deprived of opportunity to reform. No one wants him hounded by detectives or kept from employment, but there is an absurdity in striving to shorten the sentences and pamper the wrongdoer. I shall have a great deal to say on this subject later, but just now I point to the reported case of a New York millionaire who subscribed to one of the prisoner-aid societies. It was this society which, without disclosing all the facts to him, placed a discharged and incorrigible convict in his house as a butler. Naturally, when the jewellery had gone, the New Yorker told the police that he had joined those who would "stop sobbing for the criminal and would hereafter sob for the victim." There are numerous cases of the same kind.

The professional reformer will always be found wanting more laws on the statute books to be broken, and yet tearfully considering the perilous

past, the plightful present and the glowing hopeful future of the hardened individual who breaks them. We are suffering on the one hand from the cranks who wish to reform all human nature and human habits by minority laws, and on the other from the cranks who wish to spread tolerance and forgiveness of lawbreaking about in an orgy of sentimentality. These two busybody classes first contribute the tremendous burden of unenforceable laws, the very existence of which spreads the lawbreaking attitude from one end of the country to the other, and then blither about the misfortune of the rare specimen who is caught and punished for lawbreaking.

The largest cause of the crime tide in America is the lack of punishment of crime.

Whenever law enforcement is mentioned to-day, someone always believes that the subject concerns the Volstead Act. It is a tragedy that it attracts so much attention that we fail to realize that we are not enforcing law of any kind.

The whole system is on the verge of a breakdown. The man with a gun kills and goes free. The arrested man gets bail and goes forth to commit new offences. The lawyer for an indicted man plays on delays and technicalities, and no harm comes to the wrongdoer. If the individual who defies society goes to jail he is pampered and coddled.

It serves no purpose to mince words. We have not learned how to punish crime. Our system establishes license and not authority. We have a

difficult population because of its mixed racial untrained and undisciplined foreign element.

We are in an age of irresponsibility, and life being soft, the voice of decadence is heard preaching freedom to youth while pale fingers accompany that sermon on the harp of forgiveness and sweet feeble love.

The reason we have so much crime committed against us is that we commit so much nonsense about government and law and crime and criminals.

We are like the feeble parent who invents a new don't every moment and makes life miserable for the children, but never spansks or punishes. Among the children there may be some who are bad because they have adenoids or are abnormal, but even they are smart enough to understand that a parent without any discipline is an apostle of chaos.

It is for this reason that I have undertaken to find out what is the matter with our public opinion about law enforcement, the effect of indulging youth in its lawlessness, and the holes in our system—the police, the courts, the penal system—through which the wrongdoers of America slide out to commit again their brazen and unpunished depredations. Europe is laughing at us. So is the crook.

CHAPTER III

YOUTH AND FELONY

AMOTHER said to me, "I hear a great deal these days about the claims for license made by youth, but I am not inclined to believe that youth is any worse than it was when I was a girl. Among the young is more candour, more frankness, more freedom, more courage, that is all."

It is not all; there is more crime.

Whether we are measuring the effect of a lawless age upon youth, or the effect of lawless youth upon the scandalous lawbreaking record in America, here, at least in crime, we have some measure of statistical information.

For a moment we may forget the attire and the vanities, the subjects of conversation of boys and girls, the hip flask and the automobile, the late hours and the early cynicism, hardness, and boredom.

The wide investigation into our crime tide, which has disclosed to me that the failure of law-abiding spirit may menace our whole structure of authority and order, and also our stalwart national character,

has revealed a much more important fact. It is this: Youth is the outstanding contributor to our last ten years of increasing felony and law defiance. Every man and woman in America, certainly every parent in America, may give heed to that fact. It is a direct challenge to the American home and to the forces of law and order.

The subject of youth and the extraordinary revelation of youth's part in our crime situation came to me as a by-product. I knew that youth and a new spirit of irresponsibility would figure in my investigation, but I was unprepared for the flood of information I have received and am still continuing to receive about the relation of youth to the building in America of what a foreign investigator has recently called "Your criminal's paradise." My astonishment is great at the sincerity, the vehemence, the conviction of judges, wardens, prosecutors, police chiefs, patrolmen, detectives, old professional criminals with whom I have talked, and with citizens who are writing me from various corners of the United States. Their voice is one voice. It says: "The old criminal is outdone; to-day the criminal population, which probably numbers in excess of 1,000,000, is made up, in large part, of girls and boys."

A judge of long experience with criminals in the Great Lake zone says that 75 or 80 per cent. of offenders and felons are under twenty-five years of age.

An ex-warden of Sing Sing Prison, in New York, points out that even after allowance is made for leniency shown to the young, more than half the prisoners are twenty-four or younger. One prison official after another testifies, with a look of alarm in his eyes, "Great Scott! We know it. We've been watching it. They're getting younger and younger every day."

A famous New York prosecutor believed that a chief of police in one of our Eastern seaboard cities had exaggerated. Said this district attorney to me, "I can't believe that 80 per cent. of the offenders are under twenty-five, but certainly nearly half are between seventeen and twenty-two years—let us say that eight out of ten are in their teens or their twenties."

At one time five out of seven awaiting execution in an Eastern death house were under twenty-one.

I asked the police chief in one large metropolis what this new part of youth in crime meant.

"Well," said he, "figure it yourself. If the present population of prisons is 200,000, and five or six times that number make up the total active criminal population of the country, that is like an old orchard of apple trees still bearing. But if youth is going to jump in at the rate they are coming, in ten years we will have doubled or trebled our criminal forces. Can we double and treble the power of the law—policing, courts, and institutions? No. We are losing the fight with crime and the new youth."

I have a letter before me from the president of a Western state university which says:

The percentage of youth is startling in your figures, but it has always been the same, has it not?

Not at all the same! For instance, one of Governor Silzer's recent conferences on crime prevention in New Jersey incidentally brought out for the purposes of my answer this astonishing fact: In fifteen years the average age of prisoners in penitentiaries has been reduced ten years. That is, if in 1910 the average age in a state penitentiary was thirty-six, it is now twenty-six; and that average includes boys such as I have seen, seventeen and eighteen years old, marching in various prison parades not for minor offences, but for killing and for sophisticated participation in hold-up, burglary, pay-roll robbery, and other crimes of serious violence or degeneracy.

In Brooklyn, New York, the number of boys and girls between the ages of sixteen and twenty-five convicted in 1924 increased 10 per cent. over the number convicted the year before. Almost every law-enforcement authority in the United States is cognizant of a new era in our crime tide—it is the era of unrestrained youth. And this, all observers tell me, is characterized by case after case in which the boy or girl, even those from classes of society which furnish luxury and educational opportunities, is characterized by a peculiar hardness and a lack of

emotion. I listen with profound respect to the sociologists and psychiatrists who find poverty and mental deficiency and bad environment and lack of education responsible; but what accounts for the acts of the boys and girls who have good inheritance and all the advantages?

"They have been drunk on thrills and excitement," said one detective to me as we shut a detention-jail door on a brass-faced lad of sixteen. "Drunker and drunker. And now even what that boy faces to-night doesn't give him a kick."

In a town in Pennsylvania, on May 18, 1925, a judge sentenced a boy of fifteen years old to the electric chair. The boy twirled his hat, had nothing to say, remained in a self-satisfied calm. It was the judge whose voice shook. He was sorry that the law gave him no tether of leniency! A few minutes afterward the boy was in his cell playing jazz on a phonograph. A newspaper reporter said he heard the lad announce that he was not afraid to die "in the hot seat," and that anyway, "they won't get me; I've got friends who will save me."

This boy had murdered his grandmother to obtain money for his pleasures. A complete assurance was in him—he knew others got off even when caught. His nerves, perhaps, were hardened. He was in step with his times!

There was another boy just sixteen. He drove the truck which had taken part in eight wholesale merchandise robberies in a large city.

He said: "Just wait till our lawyer gets going on this. They can't scare me. Our crowd has the system, that's all. I won't talk any more. It was a circus, anyhow."

That boy was the son of a family whose income is more than \$6,000 a year; they were planning to send him to college.

In the dimly lit corridors of the detention cells in an Illinois police station I stopped to talk with six boys, aged nine to sixteen, behind the bars for gambling. They were all well dressed. On one was found a revolver. The one next in age to the oldest told me in answer to my question that it was "silly to bring us here for playing craps."

"They will turn us out when my mother and father come home to-night," he said. "And if they didn't, we wouldn't get anything. The whole thing is a bluff."

One finds everywhere the tendency of unrestrained youth to adventure with every sensation.

There used to be a great deal of emphasis put upon poverty and heredity in accounting for the criminal tendency. The old story was that the youth stole a crust of bread, went to a reformatory, and was there corrupted by older inmates and so became a criminal. There was a day, not long ago, when it was thought that mental deficiency accounted for the boy and girl who went wrong.

"That is old stuff," said a magistrate to me; and a preliminary survey of correctional institutions

for boys bears him out. In one of them the data cards of some 700 young lawbreakers indicate that not one out of twenty committed his offences because of poverty which constricted his legitimate appetites. In these institutions the mental examinations conducted by official psychiatrists showed an intelligence standard not lower, but higher, than that of a group of public-school attendants of the same ages!

A certain group of boys and girls, all from families of some affluence, had been stealing automobiles, using them for a day or an evening, and leaving them at a remote spot. I took pains to interrogate one of the offenders after he had been discharged. He said that he owned a car himself and had no desire to steal one, but that the offence was serious enough to offer a thrill.

"It is just like boothlegging would be," he said. "It is an adventure. I'd like to bootleg just to see what it is like."

"But this leaving an automobile a long way from home, besides being illegal, is just a mean trick on the owner," said I.

"I suppose so," he said with a shrug of his shoulders. "I don't think of the owner; but it is fun to beat the law, and easy too. And if I can't beat it, I'd get off anyway. It is the game!"

This spirit, rather than mental delinquencies and hard luck, accounts for the new and startling part youth is playing in our crime record.

The president of the Chicago Crime Commission has written, as to the progress of this spirit:

You will find as he increases in his nerve, in prowess, in the glory he takes in being an outlaw, he engages first in bootlegging, or in personal violence or intimidation, but soon turns aside occasionally to hold up a citizen or gets half full of booze and breaks into a house or gets into a quarrel and commits a murder.

If the degenerating youth proceeds along this path, then for some strange reason we are all astounded! The more sentimental of us exclaim, "Such a character must be produced by abnormality. He is insane." If he has money in quantity, he feeds that idea of abnormality by engaging experts who will use strange, impressive, and interesting phrases about mentality and complexes, which will fascinate the public and swell the young criminal's sense of self-importance. If a jury or judge is willing to accept the idea that this sinner is merely a sick person, then every sinner is a sick person and we can close our jails and acquit everyone. But when this spoiled youth or pampered girl is acquitted or saved from punishment, a hundred, or thirty thousand, or a million other boys and girls note the fact, sometimes quite unconsciously, that the law is a kind of old fool, too feeble or too easily folderoled to use a heavy hand.

"Youth gets one idea to-day," said a police chief to me. "It's this—the law is like a fat old parent who has just enough energy to take a child in its

lap, and forbid a lot and scold a little, and then cry a little and pet a lot, but not enough energy to give a spanking."

This new era of youth's contribution to crime is clearly marked by two distinct attitudes. The first is that the rules of the game may be beaten. The second is that they may be beaten with impunity.

With evidence in our crime record to support the fact of these attitudes, I went looking among those who deal with youth in relation to criminality. Some who are trying with all sincerity to solve the problem of modern lawlessness by psychiatry or medicine or education or mere sentimentality, may endeavour to interpret all facts so that these facts will fit their theories of what they call juvenile delinquency. Some others, of a more square-jawed and less modern method, may endeavour to show that the new, more indulgent schools of thought are merely mollicoddlers. Some others are merely humane observers of facts. The most dispassionate and surprising unity of opinion as to the cause of lawlessness in our youth of to-day comes from the police.

I have been impressed by my experience in talking with the mollicoddling, or sentimental, group and also with the hard-hearted group. I find that a few questions as to the cause of all our trouble brings agreement as to the primary source of the new, risk-taking, irresponsible, and degenerating tendency among boys and girls. Even the mollicoddlers are willing to agree with one old police official in Min-

neapolis, who, in answer to my question as to the cause of the new attitude and behaviour of youth, replied, "Talk a thousand years, my friend—there's one reason among them all which stands up like a sore thumb. It's the breaking up of the American home."

He was right. Mental and physical defects may have increased, but it is ridiculous to believe that such defects have increased as fast as juvenile crime has. Poverty has diminished, but youthful criminals multiply. Education has been put more and more within the reach of youth, and great steps have been taken in the study of the individual. But youth grows wilder; it is now the capricious law-breaker. Heredity and breeding by the unfit play a part, but it cannot be thought that this part has grown as fast as youthful criminality has grown.

It is good sense, therefore, to take one's eyes for a moment away from a search inside the boy and girl—a search for defective teeth, defective glands, defective mentality, a bad inheritance, and psycho-analysis. These do not account for the new devil-may-care era which produces the young criminal not only from one but from all classes of society. None of these causes will account for the invasion youth has made upon wilfulness, unrestraint and criminal activity. The war does not account for it, since the youth we are talking about has sprung up to the criminal age, of seventeen to twenty-two, since the war ended.

It is the distinct weakening, testified to by a hundred or more intimate observers of youth and felony, of the American home and the obligations of American parenthood.

In an endeavour to check up this opinion I obtained data on the family histories of the inmates of two large correctional institutions for boys and one for girls. The result shows that more than 80 per cent. of the inmates come from split homes. That is, four fifths of these young offenders are from families split by divorce or some other desertion of responsibility. The solid unit necessary to the life of a wholesome American family was lacking in these cases, and the figures are too convincing to allow of any interpretation other than that the well-preserved family unit, with its early teaching, which no school can substitute, is the greatest bulwark of the law-abiding spirit—the spirit of responsibility.

All over the nation one finds that judges, grand jurymen, detectives, police commissioners, and even criminals themselves, assume without discussion a distinct weakening of that influence. Warden Lewis E. Lawes, of Sing Sing, gave reasons why boys become criminals. He placed heredity at the head of the list; but that is a more or less constant factor overcome only by some form of enforced birth control. His other reasons were: First, lack of home training, then inadequate education, insufficient recreation, gambling, bad company, liquor

and drugs, false pride. The one plain fact about the list is that the elimination of the first reason would eliminate nearly all the others.

Judge Charles W. Boote, of Yonkers, gave his list of why girls go off the track: Improper homes, no religious training, automobile riding, love of luxury, liquor, movies of the wrong type, lack of sex modesty, boys with too much spending money, decadent literature. The one plain fact about this list is that the correction of the first difficulty is perhaps the only way to correct the other eight.

I have before me an excellent example of the life of a boy which furnishes ample illustration of the effect of home disruption. The investigator for the authorities writes:

J. S. is the son of L. S., a moderately prosperous contractor for the erecting of buildings. Until he was fourteen the family lived in a suburb. The record of J. S. was good. Teachers report intelligence above the average. The family occupied a small house with about one acre of ground with a vegetable garden in the rear. J. S. and A. S., his sister, now married, were the only children. Five years ago L. S. made large profits. The family moved to No. —, — Street, occupying an apartment of eight rooms. The sister, A. S., was engaged to be married. L. S. bought an automobile of expensive type and toured with his wife. When home, J. S. says they were always at the theatre or movies. He was left alone. At fifteen he began taking small quantities of gin when the parents were away. He states that life changed from the moment his parents got money and began going out. He admits taking boys and girls to the apartment when parents were touring.

On the discovery by his father there was a quarrel. There is evidence that the father, L. S., was drunk. The mother prevented violence and proposed moving back to the suburb. J. S.

says that they went to church when in the suburb and were home evenings. J. S. went to public school, and did not fail of promotions, but was often truant. At seventeen he was arrested for speeding, intoxication, and driving without a license in the city of —. At this time there was discussion as to putting him on probation. The influence of his father saved him from punishment.

When asked if his mother and father paid attention to him, he said, "They were always out or I was. When we lived in — my father and I worked the vegetable garden and I used to see him a good deal. Now mother is always out too. She is about fifty, but she has bobbed her hair and is pretty young."

At eighteen J. S. says he tried the effect of cocaine. He kept that fact concealed. He quit school. He was often at an apartment of one Mrs. — at No. —, — Avenue, who was motherly toward him except when she was drinking. Although J. S. was sometimes only a caller at his own home during the daytime, he was not questioned. The mother now says that both she and the father must have been "crazy to let life go on like that." She says that J. S. always seemed to be getting on all right, and she had read books or novels showing that too much restraint for boys and girls prevented self-development. She was hysterical when seen and kept repeating, "I wish it was like the old days. We got to rushing around."

J. S. takes his plight without emotion; he is principally interested in obtaining cigarettes. He will not talk of Alice G., accused with him. He is resentful because she squealed to the police. Alice G. is a girl from a broken family with whom J. S. has been going for nearly two years. She is now seventeen and her pressure upon J. S. to purchase clothes and trips for her was undoubtedly the cause of the crime.

The details of the case of J. S. as set forth in this report were changed slightly, because his punishment and that of the girl who instigated and betrayed him had not been finally settled. His offence was that of robbery and assault with intent to

kill; he and the girl shared an active part in beating an old woman, the keeper of a lodging house, on the head with a hammer to obtain savings they believed concealed in the house. They attempted to set fire to the building to hide the supposed murder. The case reveals no original and fundamental deficiency in either the boy or the girl, no lack of opportunity for education, no bad heredity. What it does reveal is parental neglect, a degeneracy of character in the absence of home guidance, and apparently a well-rooted belief that misdeeds go unpunished, and that authority is too blind or too feeble to call for a reckoning with self-indulgent and reckless youth.

Why not? These two have read of other killers who have slid out from the law by the law's delays or indecisions. They have seen accounts of alienists who have rescued others from paying just penalties. They had expectations that they would be considered unfortunate by social investigators and by parole and pardon authorities. They had tested the authority of both the home and the state, and finding it did not hamper them they stretched their string of lawlessness until it broke.

In June, 1925, a young man who had blackmailed a New York millionaire finally shot him, with whatever cold blood one may attribute to a killer who brings a weapon to the scene of his ambush. Almost his first request was to be examined as to his

sanity! He spoke in a sophisticated manner of psychoanalysis. He evidently had full faith that he would be saved by an indulgent state.

He was sentenced to a term of years, which by definite parole methods of curtailment will be a short term; but it was evident that "mental abnormality" would save him. In his early years he had been given a long leash; he had learned to expect a long leash and to depend upon loopholes and sentimentalism.

"Normal?" said a chief of a bureau of detectives in a Southern city. "No; of course a lot of them aren't normal. What of it? We've had a lot of presidents of the United States who weren't normal. Defective vision? Well, Roosevelt had defective vision. The real truth as to why these boys and girls get in here is that the home has stopped work. The bedrooms of some homes are used, but the sitting room and library, and sometimes the dining room, too, wouldn't be missed. When I was a boy the motto used to be God Bless Our Home! now it's Let's Go! And when they go, the parents go one way and the youngsters another. To-day in a lot of families they are lucky if they meet at breakfast. The old companionship of the home and the evening lamp and having the young neighbours in has dwindled away."

Judge Harry Archbald, of the Juvenile Court in Los Angeles, California, says:

My observation leads me to believe that about 95 per cent. of the youthful delinquency to-day can for the most part be blamed on bad home conditions.

He explains that mothers and fathers are satisfied to provide for their children bountifully of things to eat and wear, look out for their physical comfort, and provide them with exciting entertainment, but fail to give their children time for companionship or moral or religious training, inspiration or the example of right living. This judge who so expresses himself may feel some concern that the juvenile cases in his own court have increased 23 per cent. in one year!

A seasoned veteran in the work on juvenile delinquency says:

We found again and again when we called on parents and asked if they had a son or daughter by a given name and they replied that they had, and we would ask, "Do you know where he is?" the answer would be, "Well, no, we don't know!" There was the lack of parental responsibility, permitting children to get into improper associations.

It is needless to add that children of such families not only learn the habits of being on the loose but assume that they are living in a society where neither the home nor the state retains much interest in them or authority over their acts. And this is the result, not of economic want, mental deficiency and abnormality, or of heredity, but of complete absence of training in the law-abiding spirit.

The ex-warden of San Quentin Prison, in California, says:

There are more prisoners between the ages of twenty and twenty-five than in any other age group. The parents of the country build the prisons and then the parents people them with inmates.

F. Emory Lyon, superintendent of the Central Howard Association, speaking before the last annual meeting of the American Prison Association, set forth the idea that parental responsibility might well be written into the law:

Parents ought to be held responsible. We have approached it in many of our juvenile-court acts by the provision for punishing those who contribute to the delinquency of children. Certainly we can readily see that boys and girls who are neglected, who are ruined by being given too much money to spend and altogether too little responsibility, should hardly bear the full responsibility; it is at least a joint responsibility as between the boys and girls and their parents. One suggestion is the establishment of schools for parents.

Of course, the best school for parents, rich or poor, is the discipline of an awakened public opinion which will condemn the abandonment of the highest responsibility known—responsibility to children. This abandonment is in favour of the touring car, the card table, the movies, trips, and a round of wet or dry social engagements. The responsibility is not to be passed on to nurses, governesses, public-school teachers, or to the asinine philosophy that children must be free to develop in their own glorious self-expressiveness without guidance or companionship. Nor is the responsibility to be dismissed by talk, for it is a responsibility re-

quiring the tireless investment of time and sincere interest. It is about time to face the fact and remember that substantially the whole burden of responsibility for sweeping the torrent of youth into the lawlessness which swells our already scandalous felony record rests on the failure of American homes. It is about time to realize that little comfort is to be found in any hope that American parents can explain away the new crime tide of youth by increasing poverty, increasing physical or mental defects, or some mystic outcropping of evil heredity. The explanation is a social explanation. Parenthood and public opinion alone can restore the responsibility and rewards of a soberer and quieter home life which gives real service and joy, and in exchange exacts recognition of authority.

"And it is needed to make the American home better than ever," the chief of police of a Mississippi River city said to me. "Why? Because, as you say, we have become a nation of Arabs. The old neighbourhood or the old town life has gone. That used to help the home. Now everyone is moving. And somehow, we seem to be living in an age when the idea is to get around every obligation and claim every right to go as we please. That's why the home ought to dig its trenches deeper—not shallower."

Judge Lindsey, founder of the Juvenile Court, said recently that the rising generation is not wholly to blame for the laxity of law observance. He

blames modern parental attitudes as crime breeders and says:

If adults exercised their influence for good over youth, there would be fewer graduates from juvenile detention institutions into penitentiaries.

It is about time to face the fact that churches and religion have their link with any new generation through the home.

Such organizations as the Boy and Girl Scouts I find are regarded everywhere by the law authorities as a great help to the American home and to law and order, because they supply something that the home cannot supply readily—that is, a manly and ennobling expression of the gang spirit.

But Big-Brother and Big-Sister movements, fine as they are in essence, partake of the nature of supplying a deficiency in parenthood.

The attempt to throw upon the schools, public or private, the major work of character building is a futile attempt to pass responsibility for a personal service, owed by parents, on to institutions and substitutes which can never supplant good parenthood. A boy with a good father needs no Big Brother.

The only place left to deposit responsibility is the reformatory, and even the best of reformatory training is often in the nature of a preparatory course to pass the subject into the state prison. If some correctional institution which gets the boys and girls young enough is able to turn out a good

product, then the failure of the home and the guilt of the parent are revealed as being greater, not less.

It is principally the good home and the parent willing to put his effort and time into the future of the children which are the bulwark against all the other influences which are named as elements making for youth lawlessness. It is the home which supports education and religion; it is the home which wards off gambling, liquor, drugs, bad company, movies of the wrong type, immodesty, extravagant spending on pleasure, false pride and disrespect for law. All these elements named by judges, prosecuting attorneys and police as leading to wilfulness, a degenerating attitude toward obligations and finally to lawbreaking and crime, can only be beaten by the American home.

Says a judge, writing in answer to my questions:

There has been too much currency given by parents to the vague notion that they can pass their responsibility on to church, school, and to the modern idea of some mysterious power in world organization. I have no doubt it would please some mothers or fathers to learn that their non-negotiable obligation toward their children could be passed on to the League of Nations, so that the parents could sit on the porch of some road house without a care in the world.

It appears to be the unanimous opinion of all who come into contact with the youthful wrongdoer today that the home has at this period a particularly hard job on hand. It faces an age when, for various reasons, the whole philosophy of freedom at

any price and irresponsibility at any cost has been turned loose on the world. I have been amazed at this theory of irresponsibility, political, social, and personal, bred in Europe since the war. I have seen it degenerate art into mere drivelling expression and unite whole groups behind leadership proposing that the state should require no service of citizenship, but should in some magic way pay for every individual's idleness or delinquency. I have seen it induce a present generation of pleasure seekers to waste the physical inheritance which they hold in trust for a future generation. And coming home from service abroad, I have seen a nation with too much money to spend, too much ease, too much excitement and too much restlessness, tolerating soft and mushy philosophies about the rights of the individual.

Harry Emerson Fosdick, addressing the 1925 graduating class at Radcliffe College, said it well.

Freedom of life is not to be found in freedom from the laws of living. The lawlessness of the American people is appalling. No other civilized country has so much crime which goes unpunished. In our moral life we are at a period that seeks for release from all restraint. If we were to look for a word to express the characteristic attitude of the new generation we should find it "self-expression." We are all out to get ourselves expressed. So in music, we have strange novelties and grotesques; in poetry, free verse; in morals, do as you please. An argument for self-expression will not help the man arraigned in court for expressing himself by an assault upon his neighbour. It is neither good morals, good religion, good law, nor good psychology to teach that some primitive instincts were

given to us not to restrain, but to express. That teaching is only a caricature of psychology. It is an erroneous philosophy which tells us that we have only the choice of repressing our desires absolutely or letting them loose.

But in the main it is this nonsense which has made popular a whole modern school of literature called the Literature of Discontent. It is not necessary for the home to ban or censor a great deal of this, provided parents are sensible enough to present the ridiculous and laughable conclusions to be drawn from it. The silly side of this literature is that it is the literature of Eat Your Cake and Have it, Too. It depicts enslaved souls who break their bonds of drudgery, jump all moral fences, and land in that proverbial next pasture which always looks greener to the jackass. It is the philosophy of The Ticket for a Short Ride. The producers of such treatises, novels, and plays fail to disclose that the tickets they sell will only put the passenger off at some ugly way station. They do not offer through-tickets to the end of life.

The wrong kind of moving pictures adds a burden to the home. To send the children may seem to cost only half a dollar; it may cost half a century of tragedy. I find that all over the nation the wrong kind of motion pictures is rated by law enforcement authorities as one of the outstanding contributors to the stimulus of immorality and of crime. There is current a weasel answer given by some producers to this accusation.

"Ah!" say they, in chorus with some of the fiction publications. "It is necessary to show dazzling sin in order to point a sombre and chastening moral!"

This is on a par with the philosophy of Rasputin, that evil monk who brought corruption to the court of the Tsar of Russia. I saw him in Petrograd in 1915. His thought about attaining great spiritual heights was this: "In order to have great spiritual victories the terrible pain of grief and remorse is necessary, and how can one have this pain without committing sin?"

County Judge George W. Martin, of Brooklyn, New York, says it in another way:

Many of these pictures glorify crime or depict the rotten trail of sensuality. It is sought to justify their exhibition on the explanation that they point a moral. As sensible would it be to drag a child through the fire in order to teach him about heat.

Says another judge of a criminal court:

Censorship does not provide the remedy. We have a censorship, and it is accused somewhat justly of tyranny on the one hand and failure to stop the intellectual filth on the other hand.

Of course, the only censorship worth much is the censorship of the home; that kind of censorship is, perhaps, less concerned with what is removed from a child's knowledge than with a training which will make the child appraise the doctrines of folly and learn disgust for the odours of nastiness.

So also, in the control of sex morals, it is only the home which can compete with temptations that have increased by the increase the motor car has given to the range of youth.

Finally, it is only the home and public opinion which can avert a menace that has grown up along with the nonsense about freedom and license. This menace is the dramatization and idealization of lawlessness. It has made, I find, extraordinary strides everywhere. And with the overwhelming testimony of observers in contact with lawless youth behind me, I charge the wrong kind of reformer and sentimentalist, who wishes to excuse every felony and to pamper and pet the young offender, as being a direct contributor to the breaking down of the authority of the home and the state.

The process of making a hero of the youthful profligate, and even of the young felon, has gone to extremes. No conception can be had by the average person of the degree to which indulgence and excuse for crime have led into positive sympathy, secret admiration, and even a strong impulse to imitate. Only the detective bureaus of the nation are familiar with the stream of young persons who desire to confess to crimes which they have never committed.

Near Chicago the body of a young woman was found in a park. A boy who could not have been within miles of the scene appeared at a police station and endeavoured to gain publicity by giving a

detailed and lurid account of his guilt. In New York a dressmaker is robbed by the hold-up method. The newspapers, because of certain sensational features, are full of the daring and dash of the criminals. This brings two persons who had nothing whatever to do with the crime to confess their part in it! Case after case arises when some eager confessor who can be proved innocent steps forward to solve a criminal mystery by assuming guilt. These young volunteers are seldom merely unbalanced. They often weigh the chances of prison terms and are willing to pay the price for notoriety.

"I did it to get the glory," said one of them.

This idea of glory is fostered by some types of newspapers. An expert on criminal psychology has sent me a whole page of a newspaper reporting the adventures of one who had a record of several cowardly hold-ups and shootings and was on his way to being something of an important criminal. The headlines running across the page call him a super-criminal. He is referred to as the world's champion bank robber. The story about his capture indicates that the forces of law were helpless. It was only because he tried to make love to another criminal's lady that he met his punishment and was betrayed into the hands of the law. His life and adventures are described alluringly.

He was held forth as a quiet student of the world's best literature, because he was arrested in the reading room of a public library. The picture

is of a modern François Villon or Robin Hood who made a mistake which some other wiser boy could avoid and so go on unchecked through a lifetime of thrilling adventure.

In an Eastern city, a girl of seventeen shot down the man whom her parents desired her to marry. From the age of fifteen she had maintained a relationship with a married man. She was accustomed to cocktail parties and all the paraphernalia of modern freedom. But one of the most conservative papers in the city reports her as a

home-loving little girl who knew nothing of the ways of the world, and after this strange nightmare of violence now sits in the prisoner's box, without any rouge or powder, her little face pale with suffering!

It is enough to whet the appetite of any young wild-cat who wants to ride down all the conventions and to appear in the last chapter of the book as an interesting figure in the public eye. It might almost be worth while to accept a prison term of two or three years.

As a court officer said to me about the demure little killer, "It's not what happens to her that counts. It's what happens in the minds of all the other little girls who haven't yet become like her. If some of these hussies got the chair or life, it might not be good for them; it might seem terrible. I'll say it might. It might seem terrible enough to stop the imitators from imitating."

I have learned in my months of investigation that the great attention paid by authorities, social workers, and psychiatrists to the cure of the individual boys and girls who are sent to industrial homes, farm schools, and reformatory institutions is of value in saving those particular individuals who are convicted of juvenile delinquency. Men like Burdette G. Lewis, who has introduced scientific humanitarian measures into the institutions of New Jersey, do a vast amount of good in the work of rehabilitation.

Unfortunately their labour, so far as its effect upon the general tendency of youth toward lawlessness is concerned, is playing jackstraws. The worst possible error—and it is made constantly by those who attack the problem of the new youth in relation to lawbreaking—is the idea that the salvage of the boys and girls who go wrong is the vital element in the question. There has been so much habit thinking among well-intentioned and good-hearted persons that the whole point of what is really needed is missed.

In 60 or 70 per cent. of the cases of juvenile delinquents, there can be shown a marked improvement of character and behaviour. But the sum total of juvenile delinquents dealt with, including the incorrigible cases which are almost certain to graduate to penitentiaries, is an insignificant minority.

The real problem of correction or punishment by

the state, when the home breaks down on its job, is concerned, not with wild Joe who has been sent to reform school or the penitentiary. The real problem is to treat Joe with such swift and sure severity that Jack and Bill, George and Leo, Ole and Ephraim, Mabel and Bridget, Lucia and Gretchen, will learn from the state a lesson they may have failed to learn at home. That lesson is that authority is to be reëstablished. It is a simple lesson in cause and effect. It is the lesson that lawbreaking brings that degree of punishment which is at least sufficient to guarantee that the price paid for wrongdoing will be in excess of the sum total of the supposed gain or desire or satisfaction in wrongdoing.

I have received a pamphlet of one of the national societies which preach that children are to be controlled by love and lectures. After a long contact with the new crime record of American youth I still agree with that doctrine—if, however, there may be added to it the phrase “when possible.”

In the pamphlet I find a letter from a fifteen-year-old girl. It says:

There are many who change from bad to good through fear of punishment. If they change to good through fear of punishment, they are not as strong, as safe, or as happy as if they change through love and reason.

It is exactly that admirable attitude which permeates our land, but it is exactly half a good attitude, just as the little girl's philosophy is only half a truth. Our public opinion needs now to add to that

attitude the other half of the truth; when love and reason, whether they be of parents or of the state, fail, then—swift punishment of one to save a hundred others.

The reason for the startling part youth is playing in our crime record is the breakdown of authority. Selfishly unwilling to invest good example, good service, and time in establishing law-abiding qualities in children, parents have begun to pass the problem of lawlessness, when it becomes unbearable, over to the state.

And the state, with increasing humanitarian consideration for the welfare of this boy or that girl, has neglected to establish in front of the face of all the boys and girls that, if reason fails, then punishment begins, and that punishment means something more than slaps with the psychiatrist's feather duster or the sprinkling of a little Cologne water.

The boy and the girl who feel the pain of punishment may not be exclusively to blame, but they will serve a good purpose at last if their comparatively inconsequential misfortunes cause American youth as a whole to do some cost accounting in advance.

CHAPTER IV

THE CRIMINAL AND THE CITIZEN

WE ARE made the butt of Europe's jokes because we cannot enforce that multiplicity of laws we have a passion to enact.

I have undertaken to find out the causes and the cure for this crime menace. And in the course of doing so I have believed that it was my duty to discover not only the facts and statistics, not only the testimony of those charged with law enforcement, not only the character and method of the new type of criminal, not only the loopholes through which he escapes punishment and therefore encourages other recruits in crime, but also the attitude of the average citizen in the United States toward our rising crime tide.

I confess at once a belief that the average man and woman, although informed in a vague way that crime is rampant, that lawbreaking is running away from all restraint, and that something is the matter with our system of authority, are inclined to take the position that knowing very little of the subject, feeling a general distaste for it, and not knowing what to do about it, they will wash their own hands of

it. The subject is a disagreeable one, as I have discovered. But taking it by the horns is someone's duty. To a certain extent it is also everyone's duty.

We are aware that even the best avenues in New York and the Loop District in Chicago, as examples, have become the scenery for popping guns, and that to the old American Wild West we have added the Wild East. I know that we have learned to pay more attention to the murder of an American in Turkey or one Scottish Highlander in Shanghai than we pay to our twenty or thirty killings a day in the United States. One distant killing is an outrage; thirty, under our noses, in one day of our civilization, most of which go completely unpunished, are hardly noticed.

I showed this statement to one average citizen, a responsible successful American manufacturer.

He looked somewhat disturbed and said, "What can we citizens do about it?"

An attempt will be made to point out why we have crime and why we appear so feeble in preventing it. To that attempt will be added an endeavour to stir public opinion, without which some of our antique gestures directed at law enforcement will never be changed. I am prepared to answer the man or woman who asks, "What can we do about it as individuals, personally?"

A great deal! Only the police and prosecutors and the crooks themselves realize how much. There are definite duties of every family and every indi-

vidual to learn a rôle, small though it be, in crime prevention, detection, and punishment.

The first lesson is to add to the protection given by the authorities of the law all the self-protection against the criminal that intelligence can summon. Any one can see readily enough that the ordinary citizen not only has the duty of acting so that he keeps his own safety and property, but that such a duty, well carried out, will make crime difficult and tend to discourage the criminal. Self-protection serves not only oneself: it serves the whole community! Some police departments in various cities have issued from time to time printed warnings and instructions for the use of citizens. In my task of gathering information, however, I am impressed with the failure of most police systems to instruct the community. The police need the coöperation of the citizen, but they are under some obligation to instruct him and warn him of his dangers.

A seasoned thief who has now retired and gone in for bootlegging, and who is building a country estate, said to me with a laugh:

"The business of the burglar, the bandit, the confidence man, and the blackmailer depends a lot upon the fact that their clients are mental defectives. Nowadays, when a crime takes place and they nab the man, they send for a mind doctor and examine the prisoner. What they ought to do is to examine the poor nuts who are the victims. There's a real chance for science!"

It is impossible in a short space to cover the whole field of instruction; it is possible only to select from data gathered in various cities and indicate the important points where precaution will protect the business, the family, and the community, and tend to defeat the criminal.

The Commercial Standards Council has issued a booklet by Harry D. Nims, a New York attorney, in which something of the citizen's duty to seek intelligence and understanding in his obligation to become a part of the law enforcement system is set forth in a manner to stimulate thought.

Being a citizen to-day requires more understanding, more patience and more self-control than it did fifty years ago.

Most of us fail to realize this. Our attitude toward the law and toward public affairs is largely that of a generation ago. We forget that the new conditions under which we live have so changed the situation that this job of being a citizen cannot longer be largely ignored, as is the case with many of us. For years we have been admiring and applauding our almost breathless progress in invention, in business, and in science; and we have overlooked the increase of friction and misunderstanding which this progress has produced. We have not stopped to contrast the demands which government and law make upon a citizen in 1924 with the demands which they made on the citizen in 1824, or in 1874.

Such contrast is a sobering process. We have grown in our capacity for scientific development, in our ability to handle big business, to build business organization to a size and an extent undreamed of a few generations ago; but our capacity to maintain, to live under and to coöperate with an effective legal system has not kept pace with this growth. This failure has been due to oversight, not to intent. It has been the result of city living, the speed of daily life and the tension under which

men work. There seems to be no time in the day which a man can devote to being a citizen.

We read of friction, of misunderstandings, of lamentable failures on the part of law, of legal machinery, to function. The knowledge irritates us. We feel a distinct desire to take hold, but the impulse ends there. The wheels of progress creak. We see about us waste, unrest, and lawlessness, most of which can be traced to a lack of coöperation on the part of the public with our legal system, and to a disregard or forgetfulness of its rightful demands upon us. But we see nothing practical we can do.

The first practical step is coöperation with the police—coöperation in the comparatively simple steps to protect one's own home.

The best general burglar alarm in the world, as the porch climbers know, is a sensible dog and his bark. There is nothing which more surely produces the proper neurasthenic state in an invader than to have his presence announced by a herald. A dog who barks at everything, like the boy who cried, "Wolf!" loses a part of his usefulness, but a well-trained sensible dog, regardless of size, who can be encouraged to wag a tail at the butcher boy and split the air at the coming of a night prowler, will often pay his own board for years by preserving the safety of the family for five minutes.

When you have the next opportunity, look over your window and door locks, and then all entrances to cellars and all scuttles on the roof. The best of these will not guarantee safety, but the better they are the better the protection. One of the great testimonials to the trusting simple natures of men

and women of supposed intelligence is found in the kind of locks installed in American homes. Door locks which may baffle the family when they have lost the key on the way home from the theatre may be of such light construction that a three-minute activity will saw them out, or they may have a latch which can literally be forced back by inserting a calling card. It is possible for any one with the help of a good hardware mechanic to pick out fittings which will serve in some degree to save money in the end.

It is the back of the house which needs the closest inspection. Just why the householder always feels that the most important façade of his castle is the one which will be attacked by the marauder, no one knows. The fact is that burglars, especially in cities, dislike front-face work. I have talked to one expert who said that the street side was so dangerous that he would not attack it even if the doors were open. It is always the less obvious entrance which attracts the invader—it is the roof with the scuttles, or a rope swung down from the roof to an unlocked window, or a coping or a fire escape or a cellar opening.

The guarding of the ingresses by good devices is not of particular consequence if these devices are not used. One city burglar engaged two small boys to go along both sides of a fashionable block in the summertime, when the residents had boarded up their houses and were in Bar Harbor, Long Island,

and Europe. The boys received a dollar for trying to lift the sidewalk coalhole covers, all of which had heavy chains which might be fastened in the cellar. Sixteen of them, the burglar later testified, were unfastened, and through two of them, after he had allowed a month to go by while he made his studied selection, he gained access to undisturbed possession. If no one in a household has undivided responsibility for locking up when the family retires or leaves the house alone, it is almost certain that doors or windows, coalholes or cellar bulkheads will remain insecure.

One useful adjunct to the protection given the shell of the house—the mere exterior—is the locking of doors leading from one part of the house to another. No doubt a good many families have been saved from violent adventures by the fact that the downstairs part of their dwellings was separated from the upstairs by a door fastened with a heavy lock, a heavy hook or a heavy bolt. It goes almost without saying that the more the house is divided into locked compartments the greater is the problem of the burglar.

But above all other easy entrances to a home there is none quite so complete as that of employment. The chief of a detective bureau of one of our Eastern seaboard cities has told me that in no other folly does the householder quite reach such heights of absurdity as when he or she hires help. He cited the case of a woman who had lost all her

silverware and jewellery by leaving her home in charge of a man and wife who acted as butler and maid. The mistress of the house was a graduate of a famous college and an executive officer in women's clubs and women's political organizations.

"How did you happen to engage these two servants?" the inspector asked.

"Well, I had been having servant trouble and they were sent to me by a reputable employment agency."

"How did you know they were sent by the agency?"

"They said so."

In point of fact there was no such agency and the servants had explained later that the agency had gone out of business.

"Did you ask for references?"

"Yes, they showed me several."

"How did you know they did not write these references themselves? Did you check them up?"

"Why, no—I almost never do. Particularly in this case, these people had such a nice frank appearance."

"What were their names?"

"James and Gertrude."

"No, I mean their last name and address."

"Why, really, I—I can't quite say. They asked to be paid in cash and not by check. I don't know the last name."

It is an astonishing fact that numbers of house-

holders know little more of their servants than did this woman. Servants come and go and are forgotten, and then if a few months later the house is burglarized with an ease that shows familiarity with the premises and the use of duplicate keys, the innocent victims are astonished by the inside information at the command of the invaders.

Among the emphatic warnings of the police is the caution against leaving the house for a day, a shopping tour, or for an overnight or week-end trip, and giving all possible notice to any spying criminal that nobody is at home. Vacating a house should be attended by notifying the police rather than those who are waiting to break and enter. And yet most householders take efficient means to notify the burglar. They move the empty milk bottles into a prominent position on the front porch, they pull down all the shades, they put up a card saying, Back at Six, they ask some neighbour to say to any inquirers that they have gone to the country for the Fourth of July. They pull all the shades so that the whole house fairly screams down the street, "I'm deserted," just as at night they often turn out every light in the house, although they ought to know that for some strange reason a light of any kind often deters marauders. To cap the climax, the householder with sly avoidance of the old custom of leaving the key under the doormat will place it on the ledge over the door! Many women notify tradesmen and delivery boys that they will

be out at certain hours and then wonder how some thief found out about their absence.

Few householders have a police whistle, and perhaps this is because few know that one of the first steps of a sober burglar is to cut the electric light and telephone wires to prevent an alarm. Certainly few householders know that often the amount of goods stolen depends on the number of dress suitcases and other travelling bags left around where they will be handy for the thief to use in carrying away his selection of articles.

These strangers, more often than not, have an engaging appearance. The police know too well the story told by women whose premises have been robbed under unpleasant circumstances:

"The thing that surprised me was his respectable, prosperous appearance and his polite manner. He only wanted to look up an address in my telephone book—somebody named Gilbert. Of course, I was a little suspicious, as I always am; but after he had looked around and I was showing him out, why then he put his foot in the door. And, oh!"

A common practice in many households is for a maid to let in a stranger or vender or alleged gas-meter reader or someone claiming to be an inspector of something. She leaves him in the kitchen or front hall for a little while as she goes up to notify her mistress. And a little while is often sufficient for the stranger to select the solid pieces from the plated. For servants, and their employers, too, it

is a good rule never to leave canvassers, delivery messengers, and others not identified or vouched for, alone, even to go to the telephone. The person on the other end of the telephone may be an accomplice of your caller.

Those who come to the house to obtain delivery of express packages, or say they have been sent by an absent member of the family to take clothing or furs for cleaning, and those venders who offer goods for sale far below the normal price are always possible dangers. The sneak thieves use the first method to obtain the mother's furs or the father's overcoat, and the second are probably selling stolen goods. But so gullible are most householders that a good appearance plus a strong assertion of any kind is sufficient to give complete assurance of good faith.

A police official told me that a new laundry, seeking to obtain business from its competitors, had sent one of its drivers about a prosperous neighbourhood merely saying at each door, "Laundry ready this week?" And in nearly half a hundred cases the laundry of the family was handed out to a total stranger without a question!

The short safe rule is to keep every unidentified person on the cold side of the threshold. Observance of it would avert not only many losses of property but crimes of violence against the person, even killings. Then it would not be said so often,

"The man, who said he was a peddler, had spread some laces for me to see, and he asked for a drink of water, and that is the last I remember." Another short safe rule is never to give money or property of any kind to any one who is not known and vouched for. In one item alone—the payments down, to strangers, of parts of any bargained sum for anything—the loss every year to the simple American householder is beyond computation.

I have asked in several cities what the householder should do in case the invader does in fact get into the home. The overwhelming opinion is that whenever possible violent conflict with the criminal should be avoided. The search for burglars is utter folly. The marauder is much more skilled in meeting this situation than the advancing home owner, who either carries a light or, if the electric lights are working, goes along turning them on, each time making himself an ideal target. The burglar is probably lying flat as possible on the floor, unobserved. Whenever lights can be turned on, without exposing oneself, the more light the better, for sudden lights attract neighbours and police. Stay upstairs, behind a locked door if possible, and blow a police whistle repeatedly as if you were intending to work at it eight hours a day. If there is no police whistle, shout. If a woman knows herself to be in active personal peril, and she is not being covered by a revolver, she should break out any and

all windows she can see. Crashing glass and her screams are far-reaching alarms. Throw anything at the window sashes: vases, lamp bases, mantel clocks, the heavier and harder the better. Householders who can quietly reach the telephone, of course, should call the police at once.

Outside the home, the citizen and his family should continue intelligent self-protection. Crimes of violence, pickpocketing, hold-ups, assaults, and frauds and extortion and blackmail are the main menaces.

If it is thought that the daughter of the family needs protection, first of all warn her, as you should every member of your family, against being deceived by telephone calls from strangers who pretend to transmit any message from any other member of the family or from a friend, whenever the message is in any way extraordinary or suspicious. She should also be told, if necessary, a hundred times, that accepting a lift in a stranger's motor car is about as safe as riding in an airplane made of butter. The number of disasters from this folly occurring every day in the United States cannot be estimated. It is usually only when the girl does not come back from the ride that the matter becomes a part of the police record, and even under that condition the records are long enough.

The whole family should know that perhaps the most dangerous place in a city is a recessed doorway or open hallway entrance. It is bad enough to

stop to give a stranger a match or tell him the time on a deserted street; it is a hundred times worse to step with him into any recess out of the wind so as to examine a timepiece in a hallway or store-window light, or be lured into this corner by any pretext. The police know that unconscious bodies are not often found in the middle of the sidewalk or street; they are found in sheltered corners, tapped, or choked by their own four-in-hand neckties, the knots of which can be thrust up like a noose. The pedestrian who is obliged to be out late when streets are more or less deserted should keep moving and stay in the open. The policy to follow has been expressed by a detective who says, "Keep the eyes and the ears open and the mouth closed."

One of the reasons sometimes given for a part of the increase in crime is the increase in temptation offered by the show of wealth used as personal adornment. The past ten years has seen much more display on the person—jewellery, expensive furs, and even large sums in folds of new crisp bills. Whatever good or bad taste may dictate this display, it is always crime bait. The restaurants or other places where it is shown have often been patronized by criminals picking their victims for hold-ups and more complex operations. The beginning of many a campaign to follow and "hoist" a motorist or a business man has begun by his exposure of riches.

The New York Police Department has published

a list of excellent pieces of advice to avoid pickpockets, hold-ups, and motor thieves. It is as useful to women as to men:

When shopping, do not wear valuable jewellery. Never carry more money than you need. Be careful when boarding or leaving crowded public conveyances or when in a crowd. Keep your coat buttoned. Any one who places a newspaper in your face in a conveyance is, perhaps, working under that screen. Be alert when riding in department-store elevators; pickpockets frequently operate in them. The easiest pocket in the world to pick is the back trousers pocket and the buttoned flap gives no safety. Don't allow pushing or jostling to distract your attention from your valuables; be suspicious of all jostlers.

Don't carry a handbag hung by a strap on the wrist. Hold it in your hand with your fingers closed over its clasp, and above all don't put it down on a counter while looking at goods. This is the chance thieves are always hoping for—it makes their profits for the day.

Don't pay cash when you can pay by check. The less money in the house or pocket the better. Count your change—many women merely dump it into their pocketbooks. Don't give strangers large bills to get changed and expect them to come back. Never let any one know when you are going or have been to the bank to draw funds.

Take your overcoat and handbag with you when you leave your motor car. When leaving your motor, do not leave it running. At night leave it under a light, if possible.

One would suppose that business men and bankers, bond sellers and manufacturers who have large pay rolls, would inform themselves and use precaution against losses to criminals. A Chicago judge who was trying a three-man hold-up of an industrial establishment took me into his chambers and throw-

ing up his hands said, "How can sensible business men exercise so little sense?"

With the ever-increasing daring of criminals who prey upon financial houses and business, it is indeed difficult to understand case after case where executives are even a little more stupid or negligent than most householders.

We read of the bond-house messenger who has decamped with the negotiable securities. It appears that he has not been investigated by his employers; he is closely connected with a master mind—a pay-off, or left-fielder, as the man behind a criminal gang is called. We read of a pay-roll hold-up; only the police understand that it happened because of the foolish regularity of the day, and even the hour, when the manufacturer sent his two, armed and yet helpless, messengers to the bank to bring back the satchels of money. In a large Mississippi River city a chief of police showed me that when such a robbery took place it was discovered that the criminals had watched one bank so scientifically that they had the names of twenty-eight companies and the regular day and hour when the pay roll of each was drawn and would be carried back to the store or factory. Business men who suffer merchandise robberies are often astonished to know that when their stores or warehouses were locked for the night the burglars were already on the inside! Storekeepers who have valuable stock, such as jewellery, should put all alarm buttons on

the floor behind the counters so that, though the hands are held up at the command of the gunman, the foot, unobserved, can summon help.

There is one more caution which deserves particular mention. It concerns the crime of blackmail and extortion, which is extending like wildfire not only in the social but in the business world.

"It is the hidden crime," said one district attorney whose office does a tremendous criminal prosecuting business. "Even the innocent join the guilty in paying tribute to the blackmailer. The demand for money as the price of silence is always modest at first. Once the first payment is made, there is almost an admission of guilt on the part of the victim. Almost never does the victim complain to the authorities. We have known cases in which men of standing have gone on for twenty or thirty years paying tribute. The other day a professional man, who had been told that he would be accused of an act which he never had committed, had the courage to stand the onslaught of the blackmailers, and in face of their threats to 'expose' him he telephoned the police. As a result, detectives arrested four men and procured from one a confession exonerating the victim. No publicity was given the case. But in the usual circumstances the victim keeps silent, even if he refuses the demands made. The authorities have no complaint or information, and so it is a hidden crime."

After consultation with a great many police offi-

ciala there accumulates an overwhelming weight of reason in favour of any victim of blackmail who is not actually a felon himself turning at once to the police, telling the whole story to the proper authorities and requesting that there should be no publicity. Any good police commissioner or his deputies would have every reason to protect the victim and lay traps for the criminals. A low-grade lawyer is often behind the conspiracy, and he, too, may be netted by the law and indicted or disbarred. The last policy to adopt is to pay anything. Every cent paid plunges the victim deeper in the wallow. He owes it to himself, his peace of mind for years to come, and to the welfare of the community to keep the blackmailers hungry and eager until detectives can trap them. But cowardice or desire for compromise traps the ordinary victim.

The variety of our present fashion of blackmail is infinite. Not long ago a foolish young matron at a hotel *thé dansant* made the acquaintance of a young gentleman of foreign appearance who was most agreeable and an excellent dancer. He offered to escort her home in a taxi. When part way to her address, which she had given to the driver, he said sharply, "Excuse me. Now for the ring."

At first she was frightened, but she recovered herself and laughed.

"This is bad news for you. I never wear jewellery to public places. I purposely leave all my rings at home."

"You quite miss my point," said the other. "I am not a thief. I am referring to the valuable ring I gave you to try on your finger. I insist on its return. If not I shall accuse you of the theft. If you do not pay me for my three-hundred-dollar ring I shall ask your husband to pay me."

"I never saw your ring!" exclaimed the unfortunate prey.

"Possibly not, but none the less I want to have your denial given to the newspaper reporters and to the court."

"I have no money."

"Then drive to a friend from whom you can borrow."

Her duty, of course, was to direct the driver to take the car to police headquarters, but instead she obtained and paid the money.

The reluctance to resist blackmail arises from the panic with which many persons regard publicity. That panic, and sometimes a reluctance to perform a disagreeable duty which may involve the doer in annoyance, is the basis for a well-founded complaint from most police departments that citizens will not coöperate with the police in the suppression of crime, either by making complaints or appearing as willing witnesses for the prosecution. It has been computed that the police department and law-enforcing agencies in New York City cost the citizens each on an average of eight dollars a year. The supposition is that this expenditure is for the

prevention of more crime by protection of victims and the certain punishment of criminals. And yet few are the persons who will give fifty cents' worth of time or effort or intelligence to help the police. After investigation in many cities, I believe this unspoken sentiment among patrolmen, detectives, and higher officials is well founded; the citizen shirks his duty.

He fails to report prowlers and skulkers unless they appear in his own front yard. If he runs into a truck loading at a warehouse at night he fails to find the nearest policeman or to telephone to headquarters. If a taxicab driver cheats him he prefers to forget it in silence. Sometimes even when his house or business is robbed, if the loss is not too great, he prefers to enter no complaint; he often fails to bring charges against a faithless employee. He may have heard the shots on "that night," and his may be the evidence which would lead to the arrest or conviction of the culprit, but he does not wish to "appear in the newspapers." It is an unfortunate conclusion, but, nevertheless, reached by many veteran officials of law and order, that citizens who will lay down their lives in war to protect their civilization from violence and rapine, will, in the case of crime, prefer not to report, not to inform and, in fact, to be out of it. Numbers of complainants every day cool off and fail to press the complaint they made just after the crime was committed.

"Of course," said a prosecuting officer in Chicago

who has had endless experience with this cooling off of the primary material witnesses, "they forget that any interest is concerned except their own interest and that of the prisoner. But what about the interest of the community? Where is the boasted citizenship? The same taxpayer who hires the police officer and would be scandalized if the police officer concluded that it was convenient to let a prisoner go, will come and make that very proposal to me. The spirit often seems to be, 'Let's drop the matter.' "

I have found the same spirit expressed by persons who knew that I was seeking the causes of our American crime record and its cure.

"I would find such an investigation depressing and distasteful," said one university professor. "Of course, the statistical part of it is not open to that objection. But I would prefer to stay away from the whole subject."

It is this reluctance of citizenship to take the crime bull by the horns that gives basis for the complaint of law-enforcement officials that the public will not coöperate to give information and evidence, to come forward as willing and dutiful witnesses and as complainants who will stand by a prosecution until it is finally fully weighed in the scales of justice.

The citizen's attitude toward jury duty is also short in its payment of the full obligation and woefully lacking in a stalwart resolve to cling to hard common sense while sitting on a jury.

The average jury [writes one judge] always appears to me like the yokels gathered around a shell game at a country fair. This shell game is operated principally through an appeal by attorneys to the emotions of twelve men—either the emotions of silly, mushy sentiment or the emotions of hate, anger, and revenge. Among the twelve men there are almost always one or more who, more or less completely hoodwinked, impede the operation of justice. Few of them have the sense to estimate properly the slight value of the tricky or sentimental argument of attorneys as against the real matter in hand. They are supposed to consider only the evidence.

And yet one good man on a jury can often cure the weakness of eleven others. One good man will gain ground against folly who will keep saying, "Let's forget the harangue of the lawyers. Let's get back to the cold record of the evidence. Let us remember that our business is not to set up morals or laws, or pass sentence or take revenge. Our sole duty is to give, regardless of whether the prisoner is a weeping girl or a hard-faced brute, our answer to one question—Guilty or not guilty?"

No man or woman is doing justice by citizenship who tries to sneak out of jury duty. And the man or woman who, having heard the evidence, goes into the jury room and fails to exercise reason rather than emotions of pity on the one hand or hatred on the other may do more harm to law and order than the prisoner at the bar has done. This is because the failure of just punishment makes two criminals spring up where there was only one before.

After watching the jury system in various states I have come to the conclusion that I would like to paste up in every jury room this placard:

REMEMBER THAT THE PRISONER, AND HIS OR HER MISFORTUNES, OR HIS OR HER DESTINY, ARE ONLY A SMALL PART

OF ALL THAT DEPENDS ON YOUR VERDICT. PROTECT THE PERSON ON TRIAL FROM INJUSTICE, BUT ALWAYS THINK OF THE BOYS AND GIRLS WHO ARE GROWING UP AND MAY BE TEMPTED TO GO SINGING DOWN THE PATH OF EVIL AND ROTTENNESS BECAUSE OTHERS, WHO HAVE BEEN GUILTY, HAVE NOT HAD TO PAY THE PRICE.

One of the symptoms of the menace of crime in the United States is the great increase of voluntary organizations outside the official organs of law enforcement whose purpose is to fight the criminals. It is depressing to find that our crime situation has become so desperate that we require what amounts to a legal vigilante movement to augment the arm of the law. The forming of these groups for the protection of society is a sad commentary upon national lawlessness and the inadequacy of our governmental machinery for crime deterrence. It is, however, only in line with the words of Moorfield Storey, once president of the American Bar Association, before the Institute of Crime and Criminology:

There is no part of its work in which the law fails so absolutely and so ludicrously as in the conviction of criminals, and its failure endangers the whole foundation of society.

But the happy aspect of the increasing voluntary organization against crime is the beginning it makes in awakening the citizen to his own duties and to effective legal activity in crime suppression.

We have national organizations like the protective department of the American Bankers' Associa-

tion, with its 22,000 members, its detective agencies, and its uncompromising stand in favour of swift, sure punishment for all criminals—a stand usefully opposed to that mushy state of mind which regards each criminal solely as an isolated subject, as a sick or abnormal man, as one who must receive our profound consideration but utterly forgets the fact that failure of punishment and example starts dozens of others down the hill of lawlessness because the law itself apparently has smoothed off all the bumps.

All over the country I find coming into being trade associations organized against business frauds, against transportation thefts, against this or that form of criminality. No small part of their usefulness is in the campaign of education now being produced. For instance, the protective department of the Bankers' Association already mentioned circulates advice to prevent check frauds. It says:

“Never write checks with a pencil. Use pen and ink, or, if possible, a check protector. Fill in all blank spaces. Don't erase. Errors should be corrected by writing a new check and destroying those incorrectly written. Strangers are not always crooks, but crooks are usually strangers. Never give a blank check to a stranger and never cash a stranger's check without an indorsement which you have positively verified.

Make checks payable to cash or bearer only when you personally present them at your bank. Otherwise use the name of the person you intend shall re-

ceive payment. Never place your signature alone, as an indorsement on checks you intend to deposit. Write above or below your signature the words, "Pay to the order of —— Bank." Never sign blank checks; if you expect to be absent any length of time, open a separate account subject to check of your employee or agent.

Guard your cancelled vouchers as you would a valid check, leaving none where they may be easily taken. Keep your check books securely locked up and be careful how and where you sign or exhibit your banking signature. Beware of the magic of the word "certified." Scrutinize all certified checks carefully. Ordinary certification stamps can be duplicated almost as easily as any other rubber stamp.

Watch checks which apparently bear the maker's O. K. or other form of approval. They are more easily forged than the full signature. Safeguard your checks as you would your money, for they represent money. Deposit slips provide space for your name, usually upon the upper lines. Those written incorrectly should be destroyed, as otherwise your signature will be available for fraudulent use. You can prevent loss by first writing the detail of amounts deposited and then printing your account name. And remember that the bankers' campaign for everybody to pay by check has borne fruit.

In Iowa, Illinois, Indiana, California, Kansas,

and Oklahoma, and in other states something in the nature of legal vigilante organizations are under way. I am indebted to the American Bankers' Protective Committee for the following information of this movement in Iowa:

Bankers and business men in the state of Iowa, where they believe it is better to bury a murderer than to prosecute him, furnish an excellent example of the preventive measures necessary to cope with the criminal of to-day. After a comprehensive and practical study of its criminal code and law enforcement, the entire system was found inadequate, and changed to meet present-day conditions. Carefully selected men were sworn in and armed as deputy sheriffs in the communities of every county. In 1920 Iowa banks suffered fifty-six criminal attacks with a loss of \$258,000. With the system of vigilantes in force, the criminal element soon found Iowa too unsafe to ply their trade; and in the year 1924, Iowa banks suffered but four successful attacks, with a loss of only \$2,600, a reduction of 99 per cent. within four years. As a result bank-robbery insurance rates in Iowa have dropped to the minimum of one dollar a thousand as compared with the rate of Illinois, just across the river, where robbery-insurance premiums have recently been increased from four dollars to six dollars a thousand; or with banks in Kansas, given the same increase; and Oklahoma, where the rate has jumped from four dollars to ten dollars a thousand. Incidentally, there are several counties in Oklahoma where no bank-robbery insurance can be written. Similar organizations are now being created in Illinois, California, Kansas, and Oklahoma.

The organization of vigilance committees is only part of the Iowa plan. It has sought to educate, organize, and inspire the community to stricter law enforcement contemplating the following changes, most of which are already effected:

Increasing penalties, creating state and county bureaus of criminal identification, holding state and county schools of instruction on law enforcement, having the state compensate wounded officers or their dependents, endeavouring to increase the level of pay to raise the standard of officers, assigning the association's attorneys to county attorneys' offices free of expense to the counties to help prosecute.

In Illinois the bank robberies had become so common, with scores of killings of bank employees, that the Illinois Bankers' Association now reports that in March, 1925, a movement was started to organize a force of 10,000 guards in some 1,000 towns and cities of the state. The slogan is said to be, Shoot to Kill.

Of course, the work is under the sheriff of each county and performs the services of a state police, which the legislature refused to organize. It is reported that 10,000 rounds of ammunition have been ordered. But the significant fact is that in whatever territory the guards are on duty there has been no robbery.

It is not a great step from voluntary organizations such as these to local or neighbourhood organizations of citizens to insure law enforcement. If crime continues, if our system of justice, when the eyes of citizens are not on it, fails to give sufficient and swift punishment to deter new recruits from joining our national criminal population, it is in-

evitable that an awakening citizenship will take a hand.

One word of caution is necessary. After a careful combing of the opinions of judges, police and other experts, one is bent toward the conclusion that only expert deputies of the law should engage in gun toting. The best effort, say many authorities, which our legislators and authorities can make is not to put the pistol into the hand of the private citizen, but to take it out of the hand of the criminal. It is sometimes said that a lobby exists, maintained by dealers in huge job lots of inferior foreign revolvers, to encourage citizens to tote guns. The great weight of opinion drawn from the experience of police is that the gun in the citizen's home or hip pocket is not a protection and is a rattlesnake in the household and in the community. Says Police Commissioner Enright of New York:

There is nothing in the annals of the department that would tend to confirm a belief that the possession of firearms by the general public is any protection against highway robbery or other forms of theft, with or without violence. There is, on the other hand, much in the annals of the department, and other city departments as well, that provides incontrovertible evidence that the possession of firearms by the general public has caused numerous heart-rending tragedies.

The administration of the New York police believes that the number of individuals having something approximating a well-founded claim to carry or possess firearms within the city is exceedingly small. Firearms purchased by a citizen often come

into the hands of the irresponsible and the criminal. Chief Magistrate William McAdoo, of New York, has written, from his years of experience, an article on this subject entitled "The Pistol: The Curse of America." Governor Silzer of New Jersey in a message to the Legislature pointed out that his own investigations had convinced him that not only was state legislation needed forbidding firearms, but that because the distribution of firearms by mail-order houses and by express delivery tended to defeat state laws, he joined the increasing opinion that Federal action was necessary to prohibit the use of mails and of interstate commerce to ship firearms.

The power of the individual citizen to do his part in restoring law enforcement does not depend on possession of a pistol; it depends much more upon his possession of active interest in jacking up the archaic methods and the loose sentimentality of our system of discipline. It depends upon the part he will play in the restoration of some home authority over youth and some state authority over the criminal.

I have been impressed by many startling discoveries in my investigation of the crime record of America and in the creaking inefficiency of some of the gears of the mill of justice in America. I do not believe, however, anything has impressed me more than the brightening up of the whole system the moment it comes under the citizens' scrutiny.

I have been in contact with many police departments, I have entered many district attorneys' offices, I have sat in many trials; and my presence, although only that of an observing citizen, acted like the visit of one bearing a flaming sword. It has been almost ludicrous to see the hurry and bustle to polish the legal machinery and wash its attendants behind the ears. It was a change like that which took place in the old primary school when the board of selectmen and the parents came to a graduation day. I have seen the police chiefs strike new attitudes; I have heard prosecutors stage a whole play which might be entitled *Zeal*; I have seen judges puff up like pouter pigeons and deliver pretty good sermons. All this would be a sure result of a new willingness of citizenship to play its part and hold its eye and interest on even the sordid details of our crime-preventing and crime-punishing machinery.

A gunman, known in several cities, came to me while he was out on bail. One of my assistants had been quietly following his case to see how it would be handled.

"Why are you fellows hounding me?" he complained. "I don't know who you are, but for some reason I'm being persecuted. The police, the magistrate, the bail agency, the grand jury, the judge, the prosecutor—oh, say, there's a change! What's the idea? Why pick on me?"

"We are not picking on you. On the contrary we have not urged one step or one stringency."

"You've got some mysterious power," he said. "I wish you'd put me wise."

"I will," I said. "It's the power of citizenship."

CHAPTER V

TAKE THIS CASE

IT WAS between midnight and one. A swift motor car whirled out of a side street, crossed the empty car tracks of a deserted avenue lined with closed stores below and dark tenement houses above, and swung up to the curb in front of a brightly lighted all-night lunch room.

Five active men leaped out of this car. They were young, and principally conspicuous by the suggestion of good-natured, eager, healthy youth. The moment they had started on a run across the sidewalk, six other men, who had been standing chatting in low tones in front of the plate-glass window, moved a step or two backward. One of these men had a white terrier dog on a leash. He was the man who exploded in the back of his throat two words of warning.

He exclaimed in a low tone, "The Bulls!"

Four of the five plain-clothes men rushed into the restaurant, with its few customers sitting at some of the long white tables with their piles of paper napkins and glass sugar bowls.

I could hear the sharp commanding voice of one

detective saying, "We are the police—put your hands up—everybody!"

The detective who stood at the door with me looked over the group outside, and then he, too, exclaimed hoarsely. He might have been addressing the nondescript group of six, but as he reached inside his coat and stepped forward he fixed his eyes upon one. This one was the man who held the leash of the white terrier; he had hesitated with a sudden gleam in his eyes as if he were choosing between the detective and me, then a slow smile had come over his thin young lips and his shoulders drooped again.

"Put 'em up, Ed. Put up the paws," said the detective. "Have you got one?"

"Sure."

"I'll take it."

"Don't tickle me. I don't carry 'em on my hip. I carry 'em where you carry 'em."

The detective reached inside Ed's well-tailored waistcoat and drew out a lean .32 calibre revolver of a police type.

"You like this style?"

"Yeh; they're quick, light, and dependable," was the reply.

The detective listened attentively and respectfully to this gray-eyed youth, who, like the gun, was lean, metallic, agile, deadly. The officer was learning something from an authority. He knew whom he had accidentally picked up in front of this respecta-

ble-appearing criminal resort: a person of distinction and one of the well-known gunmen in the country—an authority on quick draws and gun battling—a man of record in his profession.

"This is Ed S.," said the detective to me, and then, looking at the group of newcomers, who like moths of the night gathered from nowhere out of the dark into this circle of light, he motioned to the other officers of the law who were coming out of the restaurant doorway.

"I got one. It's Ed S.," he said with brevity.

I glanced at the faces of the newcomers who were now, in their turn, being searched for weapons. It was evident that Ed S. was on his own heath or block, and that he had friends near at hand who loved him and might be tempted to appoint one of us, the invaders, as a proxy to die for him. There was a boy of sixteen with an expression of the hunger of youth; there was an old man, who stooped like an ape and dangled his arms when the detectives had frisked and searched him for weapons.

"Are you Ed S.?" asked another member of the police squad, addressing the prisoner.

"No. It's a mistake." This with hopeful earnestness.

"Remember we've got the finger prints, old darling."

The prisoner sneered, but rather uncomfortably. "That's not my name—now," he countered.

"Out of luck!" growled the old man, lighting an-

other rather handsome cigar. "Want me to take care yer dog?"

"Yeh," said Ed. "You know where to take him. Thanks."

The keeper of the restaurant came to the door. He watched us take Ed S. to the touring car. The proprietor's face was in the light; it was a broad expanse of imperturbable calm philosophy and resignation.

"Ed had his chance at us," whispered the officer who had made the arrest. "He could have bored us and made his getaway. It's a wonder he didn't pull and drop us."

"I don't agree with you," I said. "He has it all too closely figured for that. He knows the consequences. I don't know what it is, but he has too much at stake somewhere. We were safe enough."

The car was overcrowded. Ed S. sat in my lap.

"It was bum luck," he said to me in a low tone. He was shivering a little. These steel-gray fellows are not so metallic after all.

"How did you happen to come downtown tonight?" I asked.

"It was my dog," he said in an aggrieved tone. "He got sick. I had gone to bed and then the dog began to whine and cry—say, it was pitiful! I got up and got dressed and came all the way across the city to find a friend—a veterinary."

"The cheerful liar," thought I, for I had learned that sob stuff is one of the criminal's best stocks in

trade. "I expect this fellow will send out from the detention house and get a package of cigarettes and a prayer book!"

But I was wrong. Ed S. was telling the truth about the dog.

One of the detectives said into my other ear, "This is a regular one—a killer. We've got his record."

This was a bad night for Ed S. It was a lucky one for me. Ed S. has furnished me with all I could ever hope for in the way of a typical criminal and a typical criminal case. So typical is the case of Ed S. that it becomes unique. It has in it all the outstanding causes of the making of a criminal; most of the weak points where the law breaks down; all the false, mushy sentiment and all the blind misunderstanding with which we treat our rising tide of crime. Luck at last had given me a case disclosing step by step the drama, the tragedy, and the howling farce of our national crime record. And here it was—all hanging around this metal-faced, cool, philosophic, fastidious gunman! This was not statistics on crime. This was not theory. This was human—and real—and first hand.

"I like this Ed S.," said my friend, who had accompanied me on the raid. "He is an impulsive but warm-hearted boy."

I laughed outright, for I knew already that except for some remote corners of his soul, he, at twenty-five years of age, was as cold-blooded as a

cross between a venomous snake and a Greek sage.

Ed S. was, in fact, born not two blocks away from the spot where we had arrested him. His real name I will not give, because I shall have something to say of those connected with his destiny which might cause them undue embarrassment. As for the spot, call it F Street.

As one looks down F Street the fire escapes, decorated with mattresses out for an airing, and the white pitchers and milk bottles on the window sills, break somewhat the monotony of ugliness in these tall tenement houses with their wearisome stairs, their swarming doorways. The street-cleaning department is always short-handed here; children play amid a litter of paper, old strawberry boxes, discarded slippers, and such things. The place has not changed much since Ed S. graduated from F Street. It was a hive then; it is a hive now. In this respect it furnished a factor in Ed's destiny common enough in the making of criminals.

Ed S. says, "It's this way—with the rich, every kid has his own top or doll. But where there's only one top on the street it's more likely to say good-bye to its owner. Maybe you think that where there is a lot of property there is stealing, but I'll say it's where there isn't enough to go round. And the women in that old block have got just one idea—get the kids out into the street. That gets 'em from under the feet in those little rooms. The street is the kid's old man and his mother. The

woman who sticks her head out of the fourth floor and bawls out for her Jimmy is only the woman who cooks for the family.

"But it's the being so close with everybody that counts. I almost forget it, but on hot nights when the windows are open and the air shafts, too, I've laid in bed and counted four families having rows and slinging chairs around, and so on—pretty raw—pretty rough—pretty rotten. Eh? Don't think I'm kicking—I've had my chance with the rest of 'em. And I've no complaint. Some of the boys on F Street have grown up without getting into trouble. One I know is a plasterer, and I hear he makes sixteen or eighteen dollars a day. Well, just now that wouldn't get me through an evening with a party at Jim Kelly's—and I don't drink much at that."

Ed S. not only is an example of the criminal graduate from the overcrowded urban districts, where the street is "the mother and the old man, too," but he falls into another of the classes which grow crime. When he was seven, there was a row in the family. Neither he nor an older sister, whom we will mention again later, remembers much about the row. Ed's father was a mild dipsomaniac. And this fact is typical also. A mechanic's job was given up for a factory; and the eternal inhuman monotony of standing in front of a machine probably made some kind of escape from self imperative.

"I don't blame him for the drinking," says Ed. "Why wouldn't he?"

At any rate, there must have been a divorce, or perhaps a separation, and then the death of the father. The mother had moved across the city, and about the time Ed was ten she had moved back again to F Street. She had a new husband and a new baby. The new husband was a nice enough man. He treated the children of his predecessor well. He was a good provider, too—a curiously sober, steady, phlegmatic creature; kindly, but brooding. The new baby, however, caused a great deal of trouble. It was a little boy, always ailing. Ed remembers that its coming so destroyed the mother's health that she died when it was eighteen months old. No one knows just why Ed's new father waited for six months to leave his family.

"He faded away," says Ed, with a grin. "Two of us weren't his. He came out of nowhere and one day that's where he went. Of course, someone may have rubbed him out, or he may have fallen off the back end of a ferry boat. But I guess not; I guess he just faded."

The statistics show that of the populations of reformatories and correctional schools about 80 per cent. come from broken homes. Ed's case was no exception. Rows, divorce, desertion—they obliterate the home; and the mother-and-father compact is the only real bulwark against crime. The statistics show it; Ed S. agrees with them.

It is difficult to make Ed S. talk of his career between the time the record shows that his second father deserted, and the day he was sent to the reformatory. I believe that this is due to the existence of his sister, who has since married. He seldom answers questions about her. He says she does not know where he is, or anything of his adventures, and certainly nothing of his criminal record. I pointed out this significant attitude to a newspaper reporter, who believes that Ed S., like others of his kind, must have a certain swashbuckling pride in being a hero to certain misguided young friends.

I said, "You may think he would like you to write him up, with a picture layout, as a daring, dashing bandit, but there's something he wants more than that—he wants his sister never to read it. And there's one other person, too, who must not know. If he has any of the supposed pride in his exploits, it certainly becomes shaky whenever the names of two women are mentioned. And that shows something of shame rather than bravado."

No one in the F Street neighbourhood can give any information of Ed in his early teens.

He himself shrugs his well-tailored shoulders and says, "I forget. Someone helped us out. I was just a kid—I went to a school, but I ran away. I worked as errand boy, afternoons. Steal? Sure. The kids all do. No harm. Bananas off a stand, vegetables off a cart, and the like of that. I was

fifteen when they got me. I went up a fire escape into an empty apartment—there was nothing there but a quarter meter. I broke it open to get the coins and the gas began to leak. That's how I got caught—waiting around trying to plug it up."

He laughs. He lights a new cigarette, leans back, and flicks the old one into a corner. His gestures are graceful, his nails are well manicured. Ed S. has a lean, rather white face, gray, cold eyes. When on show he looks straight into the eyes of his questioners. The furtive glance of the real criminal is a myth; most of them have developed a painfully overdone manner of honest unblinking eyes. But Ed S., being as mentally awake as any questioner of his, looks straight not for pretense, but because he is as interested in reading character and motives as any police officer, judge, warden, or casual interrogator could be.

He is thin and wiry. At first glance one might believe that he was a young man of twenty-seven, studying landscape architecture or painting. He has a nice forehead and a delicate chin. He has the outward appearance of one who is used to good manners. There is nothing coarse or gross about him. He could stand about at an afternoon tea on a Long Island estate without exciting the suspicions of some of the guests—or the butler. It is against him that he so often wipes his dry, thin lips with the back of his hand; but on the other hand, although there are plenty of faults in his English.

he always speaks with a quiet restraint. If he said, "I'll kill you," it would be in the same cool even voice he would use in saying, "Good-morning."

To be sure, he shows traces of a sickly boyhood. There is a bloodlessness and weariness about him which speaks of early undernourishment or a tired mother. But the report of the psychiatrist who first examined Ed's mind to me appears ridiculous. He found Ed "abnormal" and "slightly neurotic." No doubt. A few years ago we all grew excited about the idea that the criminal was "not a bad man, but only a sick man." That was great news, until we began to examine those who were not criminals—for instance, the men in our war draft. Then we found about the same proportion of sick men. Indeed, let us look the facts in the face—let us realize that it is mostly the stupidest of criminals who are found in our penitentiaries, and the higher-intelligence groups are not on the data cards. Let us realize that in some reformatories the intelligence and health are a little better, if anything, than those of the public-school group of the same age and locality. Certainly, if Ed S. is a criminal because he is "mentally sick," I would like to have all the policemen in any city where I lived as "sick" as he.

Ed knows that himself. He says, "The criminal court building these days is full of defendants who want to prove they are nuts. I only wish I could sit in at a poker game with some of these doctors and parole-board members."

Ed remembers his first arrest and arraignment.

"Of course, you may think I'm handing you the apple sauce," he says. "It's old stuff. And what's the use of talking about it? But when I was sentenced to the reformatory—that was when I got mine!"

He stared for away. "How?" he asked. "Oh, you know. You know all about it—you've been asking about it. If you talk to the birds in the penitentiaries they'll tell you—they're graduates. The kick isn't about the way a guy is treated. Some of 'em may kick on that. But I don't—what happens? Listen—a kid goes there and the minute the older ones get a chance at him they say, 'Hello, here's mamma's boy! What did you do, kid?' And he says, 'I ran away from school,' or 'I worked a slot machine with a hat pin,' or 'I stole from a quarter gas meter.' And then the others say, 'The next time why don't you get sent up for something? Listen to Jimmy here! He used to rob grocery stores—and he had a swell girl—a girl nearly twenty-five—listen—tell him, Jimmy.'"

I judged that Ed S. thought that the reform school might take down its sign and put up a sign marked crime school. It is the old story. Most of the criminals who present sob stuff to parole boards and prison associations emphasize the fact that the state itself furnished them with the basis for their long criminal records. And there is

foundation for this ever-present story. A great deal of good work has been done in classifying and separating the prisoners by ages and degrees of badness, and by capacity to reform. A great deal more has been done by juvenile courts in conducting reform on the sunny outside of the reform school. A great deal will be done in vocational training and placing graduates of the reform school in definite jobs.

When Ed S. was paroled out of the reformatory two years later, the parole was given for good behaviour. I cannot find that there was any real investigation made of who petitioned for Ed's parole, or what exactly was to become of Ed after he went back to plunge below the surface in the great city.

Brevity is Ed's virtue. He said of the whole transaction, "A dirty deal."

I said, "You think so? How would you change it?"

He examined his finger nails and shrugged his shoulders.

"It might have been a dirty deal so far as you were concerned," I said. "But how do you count? Of course, they didn't set you going straight, but what of that? You're only one. You got yours for the sake of the rest of the boys and girls—say those on F Street. When they sent you up for shaking out a gas meter, that stopped the others

from shaking out a gas meter or breaking into a coal hole or a show case."

"That's so," he replied. "I never thought of that, but it's so."

I explained to him the four theories of punishment—first, that society was taking revenge; second, that it sought to put the criminal where he would do no more damage; third, that it was trying to get the criminal where it could educate and reform him; fourth, that it was punishing offenders in order to deter others from wrongdoing.

"The last is the most important," he said metallically and without a moment's hesitation.

"It hasn't stopped you," I argued.

"It would if it knew its business," he replied. "I never do anything I think I can't get away with. I'm out on bail now—ain't I? Everybody will do what they think they can get away with." That was his point of view.

I said, "Will they?"

"If they want to," he said.

"But you said you'd been going straight for two years now," I reminded him. "Why?"

He blushed—"Oh! I don't know—I've been making good money," he said. "And besides——"

"Well?" I inquired.

But he was not ready to tell me that. Often he was frankly unwilling to answer questions. "If I don't want to tell you anything, I'll say so," he as-

served. "But if I talk I won't hand out anything phony. I got over that. They all do it. It makes me sick."

They paroled him out of the reformatory. He went to an address another boy gave him. It was a garage where they let trucks and fast cars and ask no questions, provided the rental is high enough. The fast car has become as much a factor in American crime as the gun. "The machinery," Ed S. calls the two taken together.

This garage job was his initiation into organized crime. The gang, of which the garage was one facility, had many facilities. It had its connection with petty politicians; with a certain lawyer's offices; with correspondents in other cities. It probably was a part of an elaborate fence. A fence is a receiver, transporter, salesman, and distributor of stolen merchandise.

"What kind of a business did they do?" I asked.

"I guess I don't know," replied Ed.

There are certain criminals who have a distaste for organization, just as there are certain individualists who find themselves in our business world with a temperamental unfitness to get in line. Ed was one. He is a born individualist. So many criminals are intense individualists and as temperamental as prima donnas that the greatest illicit industry we have ever known—the bootlegging industry—has trouble in finding workers who, as one captain of the industry told me, are fit to seek pro-

motion in a big, serious job as it is now developing, because they can't see what a big future is in store for them.

Ed S. left the garage. He became a bell hop. When he had time off he played pool. He belonged to a Clover Athletic and Easy Home Club, which means that he had entry to places open all night where one could play cards, roll dice, and have a personal mail address. Inasmuch as many of the better sort of gentlemen criminals have been bell hops in cheap hotels, or taxi drivers, and have belonged to pool-playing and quiet clubs, Ed's experience was typical. Even the intense individualist has to have his hang-out. Sometimes the hang-out approaches the nature of a business office. A crook who does not have a connection with a "pay-off joint," as many of the central offices of a crime ring are called, must have a hang-out where there are shelter, friends, an address, a meeting place, recreation, a centre—something more than a hall bedroom can furnish. The hang-out is a club, but it is also an office.

How much crime Ed S. committed during this period he does not tell. Why should he? I have reason to believe that he learned to look upon violence, physical injuries, and even death with a philosophic or, perhaps, calloused mind, by serving on one side or the other as a hireling in labour disputes. Here again Ed was typical. The conflicts between striker and strike breaker create a demand for hire-

lings who can be deputed to stir up violence, to intimidate, or to plant the other side. I have known too many strike breakers not to know the nature of their recruits and the education they get in utter insensibility to violence. I have known, on the other hand, the gunman type who is hired by the striker's side to beat the scabs and terrify employers. The road to acceptance, with a calm spirit, of killings is not a long road. The same man who gets up in the middle of the night to take a suffering terrier to a veterinary may regard manslaughter without the nausea or repulsion others trained differently may feel.

Ed tells graphically of the killing of Jimmy X., one of his own crowd.

"The worst of it was that it was all about nothing," he says. "We'd been on an errand across the bridge. It was no go—so we came back, and we were standing in front of that same pie-and-coffee place where the dicks got me the night you was with 'em. And there was words. Not over a girl, not over money, not over a double cross, or anything you might expect—just words. Mike, who is a Wop, got Jimmy's goat and Jimmy kidded Mike about the way he brushed his hair.

"Mike said, 'Take that back.'

"It was two evenings later when Mike turned up again, and when Jimmy came over from home, Mike says to him, 'Are you going to take back what you said?'

"And Jimmy says, 'No,' and Mike says, 'Then I'm going to bore you.'

"And Jimmy says, 'If you're lookin' for trouble, I'll see you when I've got my gat.'

"And Mike says, 'I'll see you now.' And he pulls his gun and Jimmy throws up his hands and says, 'Don't!' Bango!

"And when the cops came and asked Jimmy who did it, he says, 'None of your business.' And he flopped before they got him into the hospital.' "

When Ed S. was nineteen he, too, was in a ward in a hospital, full of gunshot wounds. The police record discloses that he refused to identify his assailant.

He is reported as saying when he had come out of the ether, "You want to know who worked on me? Well, I'll tell you. It was a highwayman. I'd been out to Berry's road house. He's a friend of mine. And I was coming back because I was playing cards and I missed the last car. A stranger walked up to me, and says, 'Stick 'em up!' And I walloped him and he had an automatic. And that's that."

The story is not unusual. The number of murders unsolved by the police is in some measure accounted for by the gang killings, the bootleg or other ring wars, the so-called "Tong rub-outs," when no complainant can be found and no witnesses.

In the same year, Ed appeared again in a hospital with a bullet wound in the thigh. The police be-

lieve it was inflicted in a battle between four hold-up men and a motorist at the far end of one of the drives in the city park system. The blood poisoning kept Ed out of the draft for the American forces in the war. He is not at all sorry. He says his friends who went overseas regard the French as ungrateful and the whole war a waste of time, because it "got no one anything." Ed is a consistent cynic.

The illness not only kept Ed out of the draft, but it brought him down to dire need for money. He is apologetic about having been caught in an attempt to steal from freight cars. He says he would not have engaged in the venture had it not been that a friend, who had just been paroled from the state penitentiary, was also broke and needed money for a sick sister. I accept this with a grain of salt, but it may be true.

"Oh, it was a washout," says Ed S. "We had a truck backed up and we were passing the boxes when the railroad detectives came out of an empty car. There was both of us—paroled too. I had no friends in the city-hall crowd, and not even one of the lawyers who was right. The lawyer I got pulled it out for a few months, but the express companies, the banks, and the railroads kept after the case and I got my six years at W——. Of course, that meant three."

"Were they bad?"

"Not so bad," he replied. "A waste of time.

It's a regular and sober life. I gained fifteen pounds and never felt better. They have books and movies and courses of education and stage shows and a good dentist and a doctor. The only thing to worry about is when there isn't any work. And most of the men are dummies. There are very few regular fellers. Do you know that some men get the institution habit; they'd about as soon be in as out. But not me! I'll take my freedom."

On the whole this is the typical attitude. Prison reform has brought much abolition of hideous brutality, new public conscience has substituted methods attempting to cure the criminal, to give him individual study, and restore him to law-abiding habits, if possible. The parole system and the indeterminate sentence are supposed to pass those who are cured back to society. As Ed S. knows very well, this may work as to those whose crimes are crimes of impulse or accident; but after the formative period is over—and most of the formative period is over when heredity sets in—the degenerate may be aged into inactivity like an extinct volcano, or the professional crook aged into inactivity, but while youth remains the reformation is slight indeed. The records of police departments show that from 25 per cent. to 35 per cent. of convictions are repeaters, and the number of paroled prisoners still young enough to seek any kind of self-expression, who break their parole or who merely wait until the parole has run out to commit another crime, is con-

vincingly large. To create the supposed cures, it is necessary to change punishment into an elaborate benevolence, and then penal institutions are no longer terrible to the crook. Ed's attitude is the usual attitude.

I said to him, "Suppose a boy of eighteen asked you, if he got caught holding up a cashier and had to take five years, whether these five years, or say three years in actual time, would be bad—what would you answer?"

"I'd answer that they would be hell."

"Because that's the truth?"

"No. But I'd want to stop the boy from holding up the cash register."

Ed S. senses the truth about our penal situation. We have not yet invented a method of so-called punishment which can cover the convicted man with benefits physical, mental, and moral, and yet is so disagreeable that it will deter others from becoming recruits in lawlessness and crime. Our prison reform, perhaps, has made for better criminals; it certainly has made for more of them.

I am morally certain that Ed, upon leaving the penitentiary, at once broke his parole again. The detective bureau is quite sure that he participated in a jewellery-store robbery where one of the store clerks was killed. The affair was outside their jurisdiction, and there being so little practical co-operation between the police forces in different states and cities, there was no sufficient machinery

to put together the evidence against him. This again is typical. Ed was absent from the city. One of his closest pals was caught and was convicted of robbery, because he agreed to plead guilty if the murder and manslaughter charges were not pressed. And that again is typical of our crime: Our criminal law is an eternal compromise.

Whether Ed has ever killed, I cannot say. It is certain that he acquired a widespread reputation as a killer in the sense that he was skilled in gun-battling, in agility, in deadly violence, in cool, calm willingness. Indeed, it was this which finally lifted him out of the class of common gangsters and gunmen. What he did between the day he was released from the penitentiary and his present troubled but prosperous state is Ed's own business. Old charges—robbery with a dangerous weapon and breaking parole—still hang against him; but he is now, I believe, quite out of the profession of first-hand crime.

He has entered the profession of bodyguard. He is not engaged in guarding the safety of law-abiding citizens against blackmailers, or hold-up men, or those seeking personal or class vengeance. Not Ed. It would not pay. And Ed is no fifty- or seventy-five-dollar-a-week man. Therefore, his clients are lawbreakers of sorts. They are big gamblers, big bootleggers, big confidence men, big blackmailers—any and all of those who are threatened, either because of some civil war in the world of crime, or

because they must at times carry large fortunes about with them.

Among such men and women Ed S. has a reputation for being honest—for being straight.

Of this reputation he is proud. He tells of guarding a famous gambler who went into Chicago a year or two ago and finally lost a quarter of a million dollars.

"I have seen nights when we would go back to our hotel with a hundred thousand and more in the good old steel engravings of Uncle Sam," says he. "Of course, some of my old friends came to me and said, 'Ed, it's a crime to let this opportunity pass. We can come along and put one bullet in your sleeve and you go down. That clears you. And we'll go fifty-fifty with you.' And I say to them, 'Try that and rest in peace.'"

A famous and beautiful girl—call her an Austrian—who occupied a suite in one of America's well-known hotels made three hundred thousand dollars in four months in her salon running a crap game, although the public believed she was earning a huge salary as a moving-picture star. Ed S. was her bodyguard. When we arrested Ed S., so he tells me, he was carrying his weapon because it was a part of his daily necessity. He was a partner in another gambling game running constantly in another well-known commercial hotel.

His profits for the month of March were more than five thousand dollars including various services

he was rendering a particular corner of the bootleg ring. Ed S. is becoming a man of some importance.

Let us see how the law deals with this man. Remember that he has a steady criminal record; that he has been a menace, a fearful example to all the younger boys who have had contact with him; that he has turned aside from crimes of violence only to associate himself with a group of organized, wealthy lawbreakers much more menacing than most criminals who defy the law while committing a crime.

And why more menacing? Because they defeat the law after the crime is committed. Because they and their ilk are able to make the law—an institution—a process—a thing for criminals to sneer at and ridicule.

Ed S. has furnished me not only with the typical history of reasonably successful lawbreaking but also with a typical case of unsuccessful law enforcement.

When we arrived at the station house that night of his arrest—the prisoner, waiting for the lieutenant in charge to come out to the desk, put his new straw hat down on a table and then sat beside it, swinging his feet nonchalantly. If he had the slightest emotion in contemplating another term at the penitentiary he gave no outward sign of it. His gray eyes were calm; they looked about at the desk, the walls, an announcement of some charity drive, and finally at the clock. It was one-forty. Ed's

eyes narrowed slightly. He scowled, meditated, and then smiled again. His demeanour might have been that of an honest voter who had come to register. I could not refrain from contrasting him with the detectives who had arrested him. He and they were natural, alert, and attractive young men; but on the whole he had more distinction than they. He was more self-contained; and of the lot, he was the only one who might be mistaken for a man engaged in the imaginative arts. I thought, as I watched him, how easy it would be for me to make that human mistake so common among the unsophisticated who in positions of judges, attorneys, social workers, prison reformers, and parole-board officials, are susceptible to the criminal's own slow-music story, or at other times develop, instinctively, a sympathy for some very likable and appealing personality.

I once heard a detective express the truth. He said, "They are like some dogs. For months you like 'em. They may lick your hand. Or you may just like 'em and rub 'em behind the ears. And then, if it's that kind of a dog, it flies at you in August just as it did before and buries its teeth in your wrist."

I have never seen real viciousness in Ed's face but once. That was when, before booking him, the detectives took his finger prints. As one of them seized finger after finger of Ed's lean hands and rolled their black-dabbed tips onto the record sheet,

the indignity of the prisoner's pride awoke all that intense individualism which has dominated his life. He grew taut from head to foot. Behind the pale mask of nonchalance I could see the fires of anger and hate.

He returned to the desk in the outer room just as calm and taciturn as ever. I can imagine that he can go for days without uttering a word. I have seen the same contempt for a chatterer pass over Ed's face that one might expect to see behind the eyes of some great and silent leader. In the city there is one judge who always sermonizes from the bench. Ed's only comment on this judge was, "He talks too much."

When Ed was interrogated by the lieutenant he gave his answers in a low monotone. The procedure had the same matter-of-fact flavour of a passport examination.

"Bail fixed at two thousand dollars," said the lieutenant after a whispered conversation with the detective who had made the arrest. Ed's expression was as metallic as ever.

"If I'm going upstairs to the cells," he said, "I'd like a package of cigarettes."

"Sure thing," replied the officer in shirt sleeves, who has charge of the detention prisoners.

We climbed the stairs with Ed and the turnkey. It was a nonchalant journey. One felt that a principal of a high school was about to show a distinguished visitor the recitation rooms or the

laboratory of physics. This impression was emphasized when Ed S. looked from side to side as we passed down the corridor of cells. In some of these cells there were faces. The faces peered out at us leeringly. Ed did not look at them.

He said merely, "Pretty clean."

"Good-night," said the detective.

"Oh, good-night," Ed exclaimed, as one exclaims when the existence of some unimportant personality has been forgotten.

"Don't forget his cigarettes, officer."

"Thanks," said Ed.

The locks made an emphatic click-clack. Then as we started to go I turned back. Ed had sat down and had buried his face in his hands. That was not a picture of success. His audience gone, Ed was presenting the drama of life only to himself. And one would have said that it was a drama of failure. I learned later something of what was then beating his spirit down.

We stopped to speak to a weasel-faced department-store thief—a man approaching sixty—undersized, wrinkled, the features on the right and left side of his face quite different. He continually patted a swatch of long red hair plastered across a bald spot on his absurdly small skull. Here was disease indeed; here was the stunted, twisted character—incorrigible—a confirmed offender who had spent most of his lifetime in jail. He greeted us with a silly, empty grin and that frank straightfor-

ward straight-in-the-eye look, so painfully evident in those who have discovered that the rest of mankind is so interested in reading their characters. The inspector whispered to the super-shoplifter. The latter tried to sight down the corridor between the gray-painted bars. "You don't say!" he exclaimed. "Gunman? Well, well."

He might have been craning his neck to see with wistful wonder a candidate for the presidency. The criminal world has its heroes of distinction in brain and fibre like any other world.

"Oh, well," said the contemptible creature to me, "he'll be taken care of—don't worry."

Ed was "taken care of." The mysterious, and on the whole effective, machinery behind a regular had already been set in motion. One of the astonishments which awaited me when I began investigating crime in America was the impression which the elusive, organized, practised methods of stepping ahead of the law makes upon police officers. The detective who spends months getting a wanted man, charged with serious crime, often has months of opportunity to watch the evasions, and ponder upon the mysterious twists and turns by which the law is tired out, baffled, beaten, and emasculated. We are used to thinking of the arrest as the crisis of law enforcement.

But someone has compared the arrest to the serving of a draft summons on a reluctant and death-fearing slacker. To this slacker a friend

said, "Never mind, Clarence, you have two chances even now. The war may end and you may not have to serve. But if you do, you have two chances. You may not be called overseas, but if you are, you have two chances. You may not be sent to the front, but if you are, you have a fifty-fifty chance because you may never have to fight. And even if you fight you have an even bet because you may not be wounded. And even if you're wounded you get two chances; you may not die. And even if you die you've got one chance out of two, Clarence."

The professional criminal in America so regards his chances with the law. It is regrettable, but it is true. The poor devil who is outside the organization or without money or brains may be sent through with reasonable promptness. But the real criminal views apprehension and arrest as only the loss of the first trick in a long card game. Bail comes next—habeas corpus. Delay, delay, delay—a sentimental jury or a corrupt jurymen—change of venue—delay. The disappearance of material witnesses. The opportunity to trade with the district attorney on the plea. A technical slip in the indictment. Appeal—delay. The sureness with which an old case becomes cold meat when the public has forgotten the crime. A light sentence or even a suspended sentence. A chance in good behaviour. The sentimental parole board which remembers the "enlightened" new attitude regarding the prisoner's

rehabilitation as the end and aim of punishment—the parole board which listens to the old mother, the weeping wife, the sad-faced relatives and the social workers, but seldom hears the other side—the police, the prosecuting attorney, or the victim. And finally the penitentiary which Ed and his friends call “not so bad.” This is the picture of the great sieve which tempts new recruits to lawbreaking because they have learned to believe in the escape from punishment.

Most of this is not present in the more effective law enforcement systems of other lands.

But Ed was in America—efficient America—America which dotes on organization. So as we left the station house, bent on another raid on another gunman’s hang-out, a polished, high-priced, high-powered car swung up to the curb: Ed’s organization had begun to tick!

“Who’s the big fellow?” asked one of the police.

“It’s Mose L.,” said another. “He has done time in New York State—the con man.”

“What’s he doing here?”

“Probably here for Ed S.”

This was a fact. At one in the morning the gang had received the fire alarm. Ed S. was in. The telephones were busy. One of the famous attorneys—veteran defender of crooks—adroit, of wide acquaintance, had been called out of his bed and consulted. Big Mose had been found at a card

game uptown. No doubt he had rubbed his jowls, thought awhile and telephoned to Johnson, the prosperous bootlegger.

"Ed will go before Judge C—— to-morrow morning at ten. There's probably a big bail. Let's make a try to reduce it. What can you do?"

"Nothing to speak of."

"I get you!"

No doubt, some such conversation over, Big Mose jumped into a touring car and went to a professional bondsman. The latter was out. At any rate, Mose telephoned one of the bonding companies—a new one—the right crowd to do business with. Exactly one hour and ten minutes after Ed S. had entered the detention corridor, the turnkey officer unlocked his cell and Ed went out and climbed into the high-powered car of Big Mose. At this stage the state for all practical purposes had sold Ed his liberty for \$2,000. Ed has won more than \$2,000 in one night of partnership in a crooked crap game. The night had now swallowed him.

Nevertheless \$2,000 is \$2,000. Ed S. appeared at the Riverside Court at ten. With him was a young man who wore an eternal sneer on his face and whose little red mouth always was whining. This was a young attorney from the great office we may call Doge and Roge, which has done ring work for years until they know more law than judges, and more tricks of practice than the district attorneys,

and more of the loop-holes than all the forces of law and order put together.

Ed S. and this attorney were beckoned near the judge's bench. The judge, elected as a magistrate for several successive terms, likes his job. He is not a dishonest man. He is a human man. He was elected by votes and it is difficult not to think of votes. While ruffling papers on his desk he looks out from under brushy eyelids and sees Big Mose sitting in the spectator's seats with Joe V., the son of Senator V. of the Sixth District. Big Mose nods imperceptibly.

"If it pleases your honour," whines the young attorney, "this prisoner has excessive bail. It is a hardship for him to furnish \$2,000 of bail. Indeed, it will prevent him from giving bail. He will be deprived of earning a living if he has to wait in the city lock-up, and dependent relatives will suffer."

He speaks in a low voice. The judge knows, or could know, that Ed has not earned a penny for years not derived from lawbreaking or from being a parasite on lawbreakers. The judge, unless he is a fool, knows that men out on bail are usually under financial pressure to commit other crimes. The judge knows, if he has read much, that in other countries bail is not, as here, one of the great holes in law enforcement. The judge knows that the professional bondsman, private or corporate, is at least under temptation to tell the criminal to raise

the money, and that cases are not rare where stolen goods are the security against the bond.

"Bail reduced to one thousand," he says in a low voice, and the state, which started to punish Ed S. and prevent a lesson to youth that crime goes unpunished, has been traded down 50 per cent. in its hold on Ed. Big Mose and the bootlegger, the willing gang of the old neighbourhood, the brains and organization of the ring, and all their associates and hirelings, have begun to function.

Ed's case went over to a district attorney's office already three hundred and eighty-nine cases behind on its criminal prosecutions. In three weeks, after Ed had been working at the crap game and had bought a new gun and been walking around as a potential killer, the case was sent over to Judge A.'s court and appeared on the calendar. All the county judges are busy with liquor cases and all that variety of virtue enforcement and individual remaking which ardent crusades have written among the normal laws.

The case of Ed S. could not be called for forty-five days. I do not know all that Ed did in those forty-five days. One of the detectives says that Ed went into another state on a big warehouse robbery which had been planned for six months by a big pay-off joint. I do not believe that.

When Ed's case was called, a young attorney from Doge and Roge said that Mr. Doge was obliged to appear that morning for a young girl who

had shot her suitor. He was trying this long case in Part II with experts on emotional instability testifying. A postponement of Ed's case was "requested." It was in effect a demand.

The next time Ed's case was called, three more weeks had elapsed. The detective who had arrested him said to me, "Oh, I'm getting tired of this. I'd like to drop it. I drag myself here, juries are prepared, the assistant prosecuting attorney is prepared. It costs the public a whole lot of money." There was a good deal in this remark. A young attorney from Doge and Roge presented affidavits from two doctors that Ed S. was too ill to appear in court! The angry detective went up to call on the doctors. He reports that they are suave gentlemen in partnership. They are skilled in patching up gunshot wounds and in signing affidavits as to illnesses. They are the ring's official surgeons.

At this stage I was obliged to go away across the country. When I returned, I asked the detective who made the arrest if Ed S. had come to trial.

He said wearily, "Certainly not. Judge A. went away sick. He is an old man and he won't be elected again. He's dotty and good-natured and easy. I think Doge, the lawyer, was going to take a chance of trying before him. But now Judge B. is sitting. He's tougher. So Doge asked for another delay and there was some wangling and Judge

B. got sore. He didn't try the case, but he raised the bail to \$5,000. And there we are!"

A week later the case of The State versus Edward A. S. was called. But Ed S. was not on hand. Luck was against him. Doge did not dare to try a tough judge. That judge ruffled some papers and growled that the bond for \$5,000 was forfeited. Later he signed a paper to that effect.

This account is written long after that day, but inquiry fails to disclose that the state has as yet collected one penny of the \$5,000. I am informed by one court officer that if Ed puts in an appearance after the bail is declared forfeited, an informal arrangement is sometimes made to return the money to the bonding company.

"But," I said, "the bonding company has not yet paid the money."

He shrugged his shoulders.

All this process must have been a great inconvenience to Ed. It must have caused him worry, annoyance, and expense. It may have interfered with his work as a killer bodyguard of bootleggers and gamblers. It was unsympathetic of the state to harass him. And it may have put him on the police "wanted" list.

I asked the detective, "Are you going after him? You know where he says he lives. Who is going to get Ed?"

He looked at me sourly and said, "Somebody—but not me!"

Ed S. probably has gone on a "trip." I think I know in what city I could find him. Nobody will disturb him there. And within his limits Ed S. will try to go straight. Not so the boy who was standing with him when we arrested Ed. That boy believes that the law is a kind of a joke. Of course he does!

And Ed S. may go straight, but not because of Society with a big S, or Science with a big S, or Law with a big L. He will not go straight because of reformatories, penitentiaries, individual correctional researchers, or social workers. For them he has neither love nor fear.

If Ed S. goes straight it will be because of a woman. Ed was married three years ago. She does know that Ed carries a gun. She does know that he gambles and that he is paid for being a bodyguard of doubtful persons. But she does not know that Ed has ever served terms or ever may. And he would kill, with a calm gray eye and his little quirk-ing smile, any one who told her.

"Light or dark?" I said to him.

"A blonde," he said, his face coming out from its metallic mask. "Yeh, and that ain't all——"

How can I fail to feel warmth toward this man whom I may never meet face to face again?

And yet if he came before me for sentence, I would send him away for all the years I could give him. And why? Not for hate. Not to rehabilitate Ed S. and restore him to society. That's a

joke. I would punish him to the limit so that every boy who had looked at Ed as a hero might know that there is a greater power than Ed—that if they imitate Ed they will feel that power—the power and authority of the state.

CHAPTER VI

CRIME AND OUR POLICE

CRIME, say the experts and statisticians, costs the people of the United States much more than public education.

It has been computed that in several cities of the United States the cost of law enforcement is between eight and ten dollars a year for every man, woman, and child.

Dr. Frank Moore, a student of penal methods in New Jersey, says that it costs \$2,200 to find, prosecute, and punish the average criminal in that state.

We not only spend more money on our criminals than on education; we spend ten times more money in costs of crime and its prevention and punishment than we spend on our army and navy. We spend three times more money on our crime than the Government raises from its customs and internal revenue. The operating director of the Chicago Crime Commission has figured that the direct financial loss of crime to the people of Chicago averaged about thirty-three dollars apiece every year.

But lawlessness increases; it does not diminish. Crimes of violence are commoner every year. The streets and highways are like a wild-west show, with

real bullets substituted for blanks. The recruits for the new criminal population are not the old-fashioned, unshaven, bulldog-jawed burglar; the recruits are well-dressed, dapper boys and girls—from the youth of the nation. A great percentage of our criminals are under twenty-three; and the average age of criminals has been reduced ten years during the two last decades.

Facing this situation the citizen is in a blank amazement. Nothing done so far—not even the devotion of large public expenditure—appears to have the slightest effect in stopping the rising crime tide. Our largest cities go on becoming more and more like old-fashioned lawless mining camps. Twenty years ago I remember that in a new settlement in the Far West I was impressed by the drama of the hold-up of a restaurant in a round-up town; to-day such hold-ups of stores and restaurants in most of our cities are a commonplace. One bandit on a horse out in the sagebrush used to be a sufficient subject for ten books and as many motion-picture reels; to-day squads of them in fast motor cars terrorize whole sections. It used to be said that yellow newspapers gave too much space to every sordid murder. Now, murders, unless attended by extraordinary circumstances, have less notice in the press than dog bites. Enthusiasts for citizen activity in crime prevention in New York, Chicago, Philadelphia, St. Louis, and most of our American cities throw up their hands and say, prob-

ably with foolish haste, "Oh, the law has broken down. Let honest citizens buy guns and put up their own defence."

It is natural, perhaps, that in the course of our slow drifting toward lawlessness the public should look for some dog to kick. Who is to blame for our disorder, our crime, our looseness of rein? Who is to blame if our daughters are held up, our house or store or bank looted, our motor cars stolen, and our family assaulted? We had supposed that we not only could enforce those normal laws that govern the safety of life and property but, proudly beating the drums of reform, we had marched on toward enforcing other laws not concerning the infringement of others' rights, but designed to provide standards of personal conduct—the various prohibitions. And now we discover that we cannot even make a respectable showing at enforcing the normal laws—the laws which are a normal function of government rather than, what may be called, our goose-stepping legislation. Responsible judges and leaders of the American bar have frankly stated that our failure to enforce our criminal laws, our indulgence of the wrongdoer and the breaking down of our law-enforcement system are a disgrace to our civilization.

What dog shall we kick? The average man or woman knows nothing about the inadequacy or absurdity of many laws or the superabundance of our law itself; knows little about the antiquated, slow-

moving, and inefficient machinery of our criminal prosecutions; knows only vaguely of the three-cornered contest between ignorant brutality, enlightened science, and mushy sentimental nonsense which goes on in the administration of our penal institutions. Therefore the average mind turns on the only force which in childhood we felt was the natural opponent of the criminal.

That force is the police.

When the governor of a state or the new mayor of a city or an investigating body of citizens finds that the crime scandal has become too much to tolerate in silence and inaction, there is a childish and simple course to follow—blame the police! There is nothing easier to say than the phrase, "The police are inefficient and corrupt."

When I undertook to find out why America is crime ridden and what can be done about it, I confess that I began at once, like numberless others who have written about our crime tide, to investigate our police, our detective methods, and all the machinery which is directed at patrolling, watchdogging, sleuthing, and arresting. It took some months of a wide investigation to get me out of that habit of mind. It took me some time to realize that other dogs to kick may be selected first by the indignant citizen who wants America to return to some decent measure of law-abiding spirit and practice. The laws themselves and their multiplicity and pretensions make up one. The creaking court

machinery which deals with the wrongdoer after his arrest is another. Our system of punishment, which fails to uncriminalize the prisoner or else so coddles him that being a prisoner is so much of a special privilege that it encourages young recruits in lawlessness, is a third.

To-day if any one asked me which department of law enforcement was the least to blame for our criminal's paradise—law, police courts, or prisons—I would answer without a moment's hesitation, "The police system is the least to blame." After going as far as I can in an extended investigation, I have the evidence, not to show that our police systems are anywhere near perfect, but to show that if they were each as perfect as they can be under present conditions, crime would still go merrily on in its climb toward a menacing place in our national life.

When I was serving abroad as ambassador in Italy one of the high officials in the Italian secret-police service told me that he marvelled that our police were half as effective as they are. Because he has been in America and has investigated our police systems, he has understood what difficulties are presented by the conditions in this country. Few of our own citizens and critics do understand.

I have discovered that all over the United States one of the great troubles in our fight against the criminal lies in the fact that failure of law enforcement is blamed by one limb of the law upon the

weakness of some other limb. The police blame the prisons and the courts; the prosecuting attorneys and courts blame the prison system and the police; the prison officials blame the police and the courts, and so it goes. However, now and then one finds a judge of prominence who gives the police their due. One such man with a long experience in criminal-court work has written to me:

It is absurd to compare the efficiency of American police with that of police in European countries. The figures show that our forces are undermanned.

That is true. London has a population of more than 7,000,000. New York, with its transient visitors, has about the same population, but the number of police on the London force is nearly double the number on the New York force.

In New York there is one policeman for every 500 or 600 persons. But in Rome there is one for every 130; in Berlin one for 225; in Paris one for every 276. Rome, with about one tenth the population of New York, has nearly one half the number of police in New York.

In Chicago the Crime Commission estimates that the professional criminal population is over 10,000. But the number of patrolmen is less than half the number of those criminals classified as professional.

It is true, undoubtedly, that if statistics were available as to the extent of territory patrolled in American and in foreign cities it would be found

that the patrol work of policemen in American cities covered about four times the patrol territory of patrolmen in cities abroad—even allowing for the fact that in many European cities patrolling is done by police officers in pairs. The plain truth is that though we spend more on crime than on education, we probably spend too little on both education and our police.

On the undermanned police forces of America there have been thrown—indeed, as this country has not yet realized—tremendous new loads. One of these is traffic—the coming of the internal-combustion engine which has almost made the pedestrian an extinct species, treated with contempt and called a jay-walker when dead. The other is the staggering load of regulating personal conduct. It is the attempt at enforcement of such laws as merely “prohibit” the individual—prohibit Sunday outdoor sports, prohibit the use of colouring matter in soft drinks, prohibit the sale of cigarettes and all the other personal-conduct or so-called goose-stepping laws.

“The part played by traffic,” said one chief of police to me, “is unreckoned by the average citizen. He expects us to reduce the robberies, the burglaries, and all the folly and vice of mankind with the same force we used to have. But he wants us to devote half that force to the traffic squad.”

The traffic in foreign countries is not one of such staggering burdens as it is in the United States,

where the motor car is bought first and the home purchased with what is left over. In New York City, for instance, there are more than 500 more men in the traffic division than there are available for ordinary patrol duty. This condition never grows better. Take the arrests and summonses in New York for traffic and motor-vehicle violations; it is a good picture of conditions in the rest of the country. In 1915 the number of offences was more than 10,000; in 1916 more than 30,000; and after 1918, when the war was over, they went up to 50,000; in 1920 to 100,000, and in 1923 to 120,000. The traffic work of the police forces of the United States has almost doubled the policing job, but no one would contend for a moment that we have doubled our number of police.

Coincident with the growth of the traffic problem there has come the thrusting upon the police forces of the United States the attempt to enforce the newer, so-called goose-stepping regulations. It so happens that laws prohibiting the sale of alcoholic beverages are now the most prominent examples, but I do not refer to them specifically, but to all the laws, dead or alive, which are less concerned with protecting the life, property, liberty, and peace of society from infringement by criminals and more concerned with attempting to create individual character, virtue, conduct, and self-restraint by writing laws on the statute books.

It is not my business as a reporter of conditions to

examine the wisdom of such laws. But no one can examine the police systems of the United States today without knowing that the attempt to enforce goose-stepping laws has seriously diminished our effective policing against crime and the fundamental kinds of lawlessness. The average police chief, I have found, is reluctant to be quoted as to the real condition. He knows that the moment he complains that the attempt to enforce the goose-step laws has crippled his work, or that prohibition has bred a whole new crop of criminals, he will be assailed by the organized reformers who no doubt conscientiously feel that he is trying to "compromise the Constitution," or that he "has no right to discriminate, because his duty is to enforce all the laws."

Writing in 1920, Raymond B. Fosdick, in his book, "American Police Systems," pointed out that one great disadvantage of our police was the presence of laws interfering with practices or customs regarded as innocent. "These laws," said Mr. Fosdick, "are fundamentally unenforceable." And he added, with truth which I can confirm, that our willingness to undertake regulation of the personal habits of citizens astounds Europeans. Except for Germany, no country, under pressure of what in local fields may be only a minority, tries to bring a particular code of behaviour within the scope of criminal legislation. He quotes J. C. Carter, once leader of the American bar, as saying:

Nothing is more attractive to the benevolent vanity of men than the notion that they can effect great improvement in society by the simple process of forbidding all wrong personal conduct, or conduct which they think is wrong, by law.

One police chief wrote me :

There are plenty of people who are more anxious to prevent a burglar from buying a cigarette on Sunday than they are to prevent him from beating a housewife into insensibility. They want us to arrest the Sunday golfer and the man and his wife who play solitaire on the train, and after that is done, spend our spare time in slapping the automobile bandit on his naughty wrist.

The hypocrisy of the police as to the enforcement of the goose-stepping laws is repellent, but to me it is also pathetic. It is pathetic because the real social will—the only force which makes the laws more than printed words on a printed page—is silent or incoherent in counselling the police to tackle the real work first—the suppression of real crime. At the same time that the police fail to have the support of citizens in the battle against the real criminal, they are terrified and bullied by a small organized pressure to give great efforts to some crusade against individual conduct. Sometimes such crusades are to enforce the laws of personal behaviour passed by rural dwellers to restrict the freedom of play, enjoyment, or conduct of city men and women; sometimes prohibitory laws are passed by one section which enjoys the vanity of benevolence in foisting a regulation on the people of another district or locality. The worst of it all is that

the effort demanded of the police to enforce such goose-stepping laws is usually wasted. This is the truth which the police know and seldom dare to tell. They know that men cannot be made over by law, that some laws cannot be enforced. They know, as statesmen, lawyers, judges, and sensible men all know, that the phrase, "The law is the law," taken literally, is a piece of hypocrisy. They know that the law is what the people willingly and freely will back up. It is pathetic to find so many police officials in America to-day who are afraid to say publicly, as they will to me privately, how much damage has been caused to all law enforcement, how much attention has been distracted from real crime, real violence, fraud, disorder and even killings, by goose-step laws and the clamour for their enforcement.

My investigation has not aimed toward any conclusions as to the ultimate enforcement of laws against alcoholic beverages. Nevertheless, no matter where one stands on the so-called prohibition question, it is folly when one is confronted with facts bearing on the crime tide to suppress them merely because they are bad news to partisan opinion. The facts are that prohibition has confronted our police forces with a tremendous new problem, and when we blame the police for failure of protection against the criminal, who actually attacks our lives, safety, and property, we cannot overlook the amount of time and effort demanded to enforce a law that no

one has yet demonstrated is ultimately enforceable.

One police commissioner, who is above the suspicions sometimes directed at a mere political officeholder, said to me: "You and I both stand for the enforcement of law. Certainly I have no right to say at this stage that I will not enforce the laws against alcoholic drink. But I would have to be a fool and the police of America would have to be blind if we could not see the costs of prohibition. The innocent may think it is being enforced. All the agencies of enforcement send up such smoke screens. We hear of blockades and clean-ups, but the prices of liquor have not changed. The police may have to say the law is being enforced, but the real truth is that it has produced a new crime ring unequalled in any past experience of a civilized country. It is organizing more and more. It is rich and powerful. The breeding of a new criminal population enjoying a fairyland of profit is going on like wildfire. The ignorant and vicious are becoming capitalists."

Charles R. Holden, the president of the Crime Commission in Chicago, has described with sophisticated insight the kind of hireling criminal, the most dangerous and permanent of professionals, who is being trained, patronized, and nourished by the bootleg ring:

You all recall, as you have read back in history, how the mercenary, the man of violence, has always been a particular source of danger to any community. He is the man whose

occupation is that of bandit or soldier, depending on whether a state revolution exists or not; as is the case in Mexico, where that type of man is the source of the present unrest. It was the mercenary—the soldier in time of war and the bandit in time of peace in Continental Europe—who brought about the darkness of the Middle Ages. You always have a class of that kind—ugly, viciously inclined, mentally subnormal from the standpoint of the modern psychopath, but nevertheless more dangerous from that very standpoint; a man to be dealt with as a matter of criminal discipline. So you have to-day the thug and gunman promoted into the ranks almost of a semi-profession. . . . You have in the criminal development of the bootlegging game a new source of both profit and employment to that man. . . . Because a man of that kind, you will find, as he increases in his nerve, in his prowess, in the glory he takes in being an outlaw, engages first in bootlegging, or in personal violence and intimidation, and the outlawry that goes with illegal practices . . . but soon turns aside occasionally to hold up a citizen or gets half full of booze and breaks into a house or gets into a quarrel and commits a murder.

It is impossible for good citizenship to counsel the abandonment of attempts to enforce goose-stepping laws while the enforcement of such laws is made a prominent issue; but it is hypocrisy of the worst type to pretend that all laws on the statute books are alive or enforceable; and it is utter folly to deny that the mandate given the police to enforce various individual-conduct laws has not been an increasing obstacle to the enforcement of normal laws which aim at the protection of life, limb, peace and property from the criminal violators of other men's rights.

When we attempt to hurl the blame for our crim-

inal's paradise on to the police of America, when we compare the record of our police with that of foreign countries, it must be remembered that our police are under three unusual burdens. They are undermanned. They have a tremendous new traffic problem. They are called upon to spend much time, effort, display, and sometimes hypocritical publicity on an attempt to enforce the newest of the individual-conduct laws. Such conditions do not obtain in Europe.

Nor do the police in Europe have to meet the problem of low-grade immigration, nor to the same degree the sudden overcrowding of populations into cities, nor—more important still—the curious and extreme development of Arab life, which causes the unparalleled movement of the modern American from city to city, residence and labour in one section changing to residence and occupation in another. We have become a nation of Arab transients, and that in itself is a great police problem.

"The motor car, too, has helped to make us a nation of gypsies," said a police commissioner in one of our larger cities. In New York the police figure that almost one sixth of the population, under their guardianship and regulatory authority, is transient.

But after the returns are in and my investigation has been as nearly as possible completed, there is one factor disclosed which, more than any other, cripples the work of our American police.

We almost never hear of it; reformers of our police systems almost never take it into consideration.

It is the almost ridiculous disorganization of our police as a country-wide coöperative force; it is the almost complete independence and isolation of each police organization, not only between one state and another, but between one city or town and another within the same state, and often between one city and another touching elbows.

It so happens that I am strongly in favour of community self-government and decentralization. I have seen enough of centralization of government functions in Europe to satisfy me that it often results in tyranny and bureaucratic dry rot and inefficiency. When governing agencies are too far away from the two eyes and ears of the human being who is governed something always goes wrong. The tragedy of the modern world is the attempt to do things in too large units. These great units look well on paper, but whether labelled Tyranny or Democracy or Soviet they fail to work and they are inhuman. But it is futile to deny that countries in Europe with a unified police system have decisive advantages over our pigeonhole police forces. This is doubly true in a day when the facilities of transportation have so developed that we are "gypsied," as the police official called it.

Even with plenty of good will and the absence of jealousy and politics between one state or city or

police force and another, the criminal in America finds it easy to skip from city to city and across the borders of states. He leaves behind him his crime, his record, his identification, and takes with him a certain measure of safety in the difficulties of extradition and pursuit.

We have no passport provisions which guard against the entry of criminals from one state to another, as the borders of the nations of Europe are guarded. When things are hot for a criminal in New Jersey he can be in Connecticut in less than two hours; and when the Chicago crook wants to leave the jurisdiction of Illinois no obstacle is presented to his passing the Wisconsin boundary on his way to Milwaukee. In Europe, on the contrary, it is well known that one of the regular policies of the Swiss police—one which makes Switzerland unusually orderly—is the practice of setting the undesirable back across the border. In Italy if a man is arrested in the Tuscany district the local police may obtain finger prints and even his telegraphed photograph from Naples through a national agency. We are without police unity or a police clearing house of information and identification.

One police chief of a large American city, who was confident that I would not betray him, said:

“Unfortunately, in some cases the situation is much worse than that. It probably would amaze most of our simple-minded citizens to know that sometimes there is even a certain competition be-

tween neighbouring cities to see who can make the most favourable deal with the professional and organized crime groups. There may be nothing dishonest about it, nothing of graft or corruption. It may be merely practical necessity. For instance, suppose you appointed as police chief that woman you saw to-day—that leader in civic movements. She is an able woman. She is brighter than I am. But she would make no deals! You bet she would not! She would try to run the department with no quarter to the crooks, no deals, no concessions. What would happen? Every crook in town would move across the river and live there. They would go to old D—— the police chief over there, and say, ‘We’ll live here and play here, eat and sleep here. That woman police chief across the river has driven us out and that’s all right with us. But don’t ask us what we will do over there.’ And they’d raid this town! Life and safety wouldn’t be worth a nickel. There’d be a feast of burglary and a carnival of hold-ups, and in thirty days the citizens of this city, never knowing why it had gone wide open, would come down in a mob and make the poor woman resign.”

It took me some days to check up this statement as to the situation between the two cities. I found that the chief was only stating the practical necessity of compromise. And it is just such situations as these which furnish one argument for state control of police.

At Pittsburgh at one time the metropolitan district, owing to political divisions, was divided into eighteen or twenty small police departments, and so there was a laboratory of the national situation on a small scale. The first development was a kind of competition between the different police chiefs to trade, in small ways, favours with criminals. The recovery of stolen goods, for instance, is often brought about by understandings with the crook world, which are, of course, of varying degrees of evil, but without which the work of many a police department in terms of immediate result would be less efficient. Later on there was a competition in the patronage of commercialized gaming and vice, and when this competition grew troublesome and threatened scandal there was a tendency to apportion among these petty little police departments the money-making patronage of definite vice rings, so that one district should have the slot machines, another the dance halls, another the card games, and so on. It was a microscopic case of the effect of one police unit competing in the wrong way against another.

There is not only present in some instances the wrong kind of competition between police departments, but what is much more important, too little machinery for coöperation. This may not mean a lack of willingness; it only may mean a lack of facility. The authorities in New Jersey, for instance, and those in New York are said to work

together from the two sides of the Hudson River. Nevertheless, there have been endless instances when the law of New York having forbidden the sale of a revolver, a dealer would take a crook across the river and deliver the selected gun and accept the money there so that the actual sale would take place outside New York State.

It is possible for a forger to enter California, commit a forgery, and skip over the state line, and, for all practical purposes, under the peculiarities of the situation, be as free as air from prosecution. To put down the instances I have gathered, in which our police are baffled by the fact that they work in small, more or less isolated units or in different jurisdictions, would fill a book.

But there is one difficulty greater than all: It is the absence of any adequate identification and information bureau which would act as a national clearing house. In this difficulty—rather than in the mere science of identification—we are far behind the efficiency in other countries. Such a bureau is maintained at Scotland Yard in London, at the Bureau of the Canadian police at Ottawa, and at the Ministries of Interior in Paris and Rome, and so on. But in this country our police forces are so out of touch one with the other that even within one state absurd results come about from failure to identify a criminal individual.

The Prison Association of New York has furnished me with the following cases which not only

illustrate the failure of identification, but also the way in which the releasing of criminals on parole or probation becomes a screaming farce carried on at the expense of society.

M. W., seventeen years of age, was arrested in Buffalo for burglary, and sentenced on March 16, 1911, to a reformatory. He was paroled on May 13, 1912, and was rearrested for violation of parole and recommitted on February 18, 1913.

On April 20, 1917, he was paroled for the third time. He failed to report to his parole officer and a warrant was issued for his arrest. Nothing more was heard from him until February 14, 1923, when he gave himself up to the parole authorities in New York City. He showed an honourable discharge from the army, which was responsible for his reinstatement on parole for the fourth time on February 16, 1923.

On the same day the man was brought to the Prison Association by a parole officer, and it was requested that a position be found for him. As M. W. had no funds, employment was obtained for him as assistant janitor where he would get his board as well as a small wage. The janitress, who had been in the habit of employing men from this association, returned after a few days and reported that M. W. had stolen \$500 of the rents that she had collected. A warrant was issued for his arrest and filed with the police department on March 7, 1923. No results were obtained and the Prison Association took

the initiative in investigating this case thoroughly. The parole officer was interviewed and asked to furnish finger prints that could be copied and broadcasted so that this man might be arrested. It was found that the parole officer had no finger prints, that no finger prints were on file in any of the three bureaus of identification in New York City. A visit was made to the State Bureau of Identification at Albany, but no finger prints were to be obtained. Communications were sent to the cities where this man was known to have lived, but without results. Miss Parsons, of the State Bureau of Identification, sent a photograph of this man, that had been taken twelve years before, to the National Bureau at Washington, D. C. The report which was received and forwarded to us is as follows:

M. W., who was an enlisted man in Troop X of the X Cavalry, U. S., located at Ford Myer, Virginia, which is just outside the District of Columbia line, on the night of April 5, 1920, broke into and entered a building on the Fort Myer grounds, and took therefrom a brace and bit. With this he bored through the door, entering the troop tailor shop, from which place he stole thirty-five United States Army Colt automatic revolvers, .45 calibre, valued at twenty-five dollars each. His whereabouts since that time have not been ascertained.

There was a sergeant of the old troop still there—Fort Myer—who states that he is morally certain that the Albany photograph is that of the former W of Troop X, who committed burglary and stole the revolvers. I would say that they are still anxious to apprehend this man.

M. W. is still at large and is undoubtedly committing crimes at every opportunity.

The known record of L. C. is as follows:

12-9-16, Chicago, Ill., arrested as a suspicious person, with no record of disposition of the case.

3-22-18, New York City, arrested for grand larceny, arraigned before Judge —— who gave him a suspended sentence.

2-29-18, Newark N. J., arrested for grand larceny, no record of court or disposition.

6-29-18, Philadelphia, Pa., arrested for larceny from person; on record of court or disposition.

In October, 1922, L. C. was arrested and charged with grand larceny. The charge was reduced from grand larceny to disorderly conduct. As the identification files of the magistrates' courts contained only the conviction in the magistrates' courts in New York City, none of the above records were available at the time this person was placed on probation. The practice was for the probation officers in New York City to make an independent search of the three identification bureaus of the greater city. It was in this way that the probation officer found the above record in the files of the police department. In February, 1923, about four months after this person was placed on probation, he was again arrested in a different district of the city charged with grand larceny. He was arraigned and allowed to take a plea of attempted grand larceny as a first offender. If the record of this person were to be followed it would probably be found that he is often being arrested on serious charges, frequently released, and, if convicted, is treated with the utmost leniency of the law.

I give these two examples out of thousands available, of the complete failure to deal intelligently with and properly punish migrating criminals—and most of them are now on the wing—without some adequate central bureau of finger printing and criminal records. The absence of such an adequate facility in American police work lames, more than any other factor, our efficiency in crime prevention.

Indeed, all along the line we suffer from lack of coöperation. The excellent example of the International Police Congress which, largely through the initiation of Commissioner Enright, of New York, has brought together the police chiefs of the world every year for the exchange of information and the development of police science, methods, and efficiency, should be followed, as much as politics permits, in the coöperation of the police systems of the United States.

Major Charles C. McGovern, formerly captain of the detective division of Pittsburgh, and a friend of Roosevelt, has called my attention to a passage in his book on *Politics and Law Enforcement*, which reflects the inarticulate opinion of most of the police officials in the country. He points out not only the necessity for greater coöperation, but also the reasons for its absence.

If the national or state government, by an enactment, would create a centralization of police power against the ravages of the professional criminal, directing heads of police departments would, in a short time, be weaned away from politics and the public then would demand outstanding ability for those directing police affairs.

There must sooner or later be a clearing house. The barriers which now obstruct the jurisdiction of police officers at township, borough, city, county, or state lines must be broken down.

Those who have spent long years in service in the police or detective work know that the courtesies extended by police departments to each other fall short of efficiency, and often of loyalty, and add greatly to the advantage of the professional criminal.

The annual police conventions in past years have recommended or adopted many police reforms which have been only partly accepted, and in many cases not considered at all, for various reasons. The first reason, of course, was that it cost money to install a system which threatened to interfere, directly or indirectly, with political interests.

Commissioner Enright, of New York, says:

It is conceded that individual police departments have increased in numerical strength and have become more efficient. But from the standpoint of collective effort, police effectiveness in this country has not advanced. No facilities for its advancement have been available. There are a large number of separate collections of finger prints, and by far the most of these are in the hands of police departments. But these collections are ineffective until some well-designed agency is created, financed, and operated by the Federal Government to collect, file, and make available to all proper authorities the records and identification of criminals throughout the country. The professional and interstate criminal is in one city to-day and another to-morrow. He knows that there is no national system for following his movements. . . . A central bureau should also distribute the more current information respecting crime and criminals.

It may be added that such a central bureau, Federal or coöperative, should maintain a clearing house for the identification of stolen property, and that it could wield a considerable power in obtaining that which I have found America almost totally lacks—criminal statistics.

I have endeavoured to set forth the reasons why all our police departments are lame and are, through no fault of their own, in several respects at a sad disadvantage as compared with foreign police systems. It is wholly unfair to blame the police if

they are undermanned, loaded with traffic duty and with the enforcement of goose-stepping and evangelistic laws. It is equally unfair to blame a local police force for the lack of national unity, the lack of country-wide coöperation, or the lack of a central identification, information, and statistical agency. While these loads are on our police, the citizens can stare our amazing and shocking crime record in the face and yet hope for no victory in a losing battle against crime.

A letter from a judge, which like many others have begun to come to me since my investigation of our national crime record and of the breakdown of our law enforcement says:

The truth is that the average man or woman has a childish viewpoint about the police. The historical development of police is completely forgotten. Police were originally watchmen. And to-day mere systems of watchmen will not cope with modern crime—organized, scientific, and often provided with large investment in its business. The average citizen is as ignorant of the real nature of the modern criminal and the real needs for the development of wholly new police systems as he is of taxation on the planet Mars.

The judge is wholly right. We may as well abandon the idea that mere patrolmen systems are sufficient. All the uniformed watchmen in the world cannot prevent murders, killings, hold-ups, robberies, banditry, fraud, arson, forgery, confidence games, blackmail, or indeed more than 2 per cent. of the whole diverse criminal activity. This may be a hard pill for the citizen to swallow, but it is

a fact. We will continue to need the watchmen, but the taxpayer must be prepared to support also in addition a modern police organization against the criminal, without which, in the long run, the criminal will gain in the race between law and lawlessness. Arthur Woods, former New York police commissioner, in his book, "Crime Prevention," points out that testimony of his own men estimated that from 50 to 98 per cent. of crime would be committed "in spite of perfect police work along conventional lines." And Mr. Woods added:

If that is true, you can see why we are cudgelling our brains to devise new methods, even if unconventional, with which to fight the outlaw.

The truth is that in America, where cudgelling of brains to fight crime is more needed than anywhere in the world, very little cudgelling has been done. Social workers with their own peculiar type of mind have written me suggesting that the police systems be built upon the idea of preventing crime at its source. They would have the policeman not only a watchman but an agent for social service. There may be something in that idea—indeed, the modern policeman, as I know him, has already taken on something of that function.

But it is not the patrolman, uniformed and known to the criminal, who will play much of a part in the real fight with the increasing criminals of tomorrow. I am inclined to agree with the words of

an old veteran of the war with the criminals. He says:

The modern politician abhors the idea, but say what he will, there is no other agency that will cope with the burglar or professional thief who works quietly and secretly, except an under-cover organization built upon efficiency, whose operatives can frequent the haunts of culprits and ferret them out, no matter how cunning their plans may be. The daring and resourceful criminal has no great fear of the known or readily recognized arm of the law.

The under-cover system will come. Except for the under-cover system, there is, indeed, no method known to discover crime plots before their performance. The patrolman can discover that the crime has been committed, and the labelled detective, often well known to the criminal, can try to discover who committed it. While this situation continues the police are always two jumps behind the crook. Only by the force of unknown investigators can the position be reversed.

Otto A. Rosalsky, the senior judge of the Court of General Sessions of New York, is in favour of this development of our police systems. He knows, as well as I do, that the old-fashioned methods of police work are being left behind in the progress made by the skill and resource of the individual criminal and in the amazing advance in the business organization of crime rings. Judge Rosalsky says:

A secret-service organization should be established. The criminals know the faces of the members of the police and detective forces as now constituted and plan their crimes with

respect to the policemen's anticipated movements. We must have a staff of trained skilled men who, operating with absolute secrecy, would, for instance, shadow criminals, and by locating the prearranged purchaser of loot either prevent the crime or apprehend the criminals immediately it is committed. That secret service would operate apart from the police, but would be under the direction of the commissioner.

Until such new methods of fighting crime reorganize our police, until we accept a new conception of police duties which shows more imagination than is shown by our depending on summoning a patrolman after the deed is done, and he in turn summoning a detective to find out who did it and where the doer has gone, the criminal will be ahead of us. It is almost useless to discuss police reorganizations, their political colour or whether state control or municipal control or joint control are good or bad. This is playing jackstraws.

It is equally useless to seek to put upon the police of America the blame for the unpunished criminal and for our ridiculous national plight in being unable to enforce the laws, while there may be said and proved the assertion made to me by the police, and confirmed by criminals from every quarter of the United States. Boiled down, this is the assertion:

"Even when the police catch 'em, the law, the courts, or the prisons let 'em go."

This is a strong assertion, but I have learned to subscribe to it.

CHAPTER VII

LAWS TO MAKE LAWBREAKING

IT IS a silly parent who nags the children. It is a sillier parent who relaxes authority. But the silliest of all parents is one who does both. So true does this appear from mere human experience that it takes neither natural brilliance of mind nor education to recognize the straight road to failure of good order, of good spirit and of peace which is taken by parents who eternally nag, constantly forbid, continuously say, "Don't!" and—fail to enforce even the fundamental obligations of right and wrong.

If this is a weakness in the family—a small and intimate unit—it is ten times a weakness in government.

And yet it has become my conviction, after contact with those who are responsible for law enforcement all over the country, that there is a clear recognition that as a nation we have undertaken the policy, not only of the silly parent who nags, not only of the parent who through folly or laziness or indulgence relaxes authority and discipline, but of that silliest of all parents who nags and harasses the

children and then lets the naughty ones do a good deal as they please.

No nation in history, perhaps, and certainly no civilization to-day, has equalled our passion for law-making on the one hand or paralleled our unpunished lawbreaking on the other hand.

Such are the bare undeniable facts. They cause no comfort. We may resent them. Especially, they will be resented by those well-intentioned persons who like to feel that a nagging government, like a nagging parent, may impose a particular individuality upon the members by the force of asserting an authority which in fact proves unenforceable. They will be resented by those good-hearted men who, having belief that a horse-chestnut carried in the pocket will cure rheumatism, wish to write laws on the statute books making it obligatory for each citizen to own, carry, possess, maintain, have, hold, and keep a horse-chestnut.

I do not expect a statement of the facts to please those who, suspecting that certain citizens do not carry horse-chestnuts, desire a law requiring the weekly search, by a million new employees on the government pay roll, of the pockets of each and every citizen. But there is nothing quite so impartial as facts. And the facts are that we pass more laws, attempt more nagging regulations, try harder to distend the normal function of government to that of a cackling parent, and yet fail more conspicuously to make good our laws than any other civ-

ilized people. It is so true that we are being laughed at abroad because we fail to enforce even those fundamental necessary laws which safeguard our property and our personal safety, our order and our peace.

It may seem paradoxical to say that our crime record may in part be blamed on the laws. But I have found this to be a growing conviction everywhere.

Unenforceable laws lead straight to lawbreaking. Lawbreaking of one kind leads to others. Lawbreaking of unenforceable laws, or trivial or disrespected or dead laws, leads straight to the habit of lawbreaking and the disrespect for all law. Lawbreaking of one kind may breed a criminal population which will engage in lawbreaking of every kind. The attempt to enforce unenforceable laws, not supported by an overwhelming social will, takes the energy, the time, and the honesty of all our law-enforcement agencies from the normal work of enforcing the enforceable laws—those laws which maintain the organization of society by preventing one man taking from another his property or his personal safety. I know there are those who do not like to believe this. They have written me, and all I could reply was that I was not setting forth my opinions; I am only setting forth the undebatable facts.

These facts are coming into the realization of good citizens everywhere.

Letters from all over the land, from citizens, judges, social workers, police, and even wrongdoers, referring to our atrocious criminal record, say that our laws are in part to blame—too many laws, too many goose-stepping laws, enough of the wrong laws to harass everybody not enough of the right kind adequately to punish or restrain anybody.

I have on my desk a file filled with the protests which have been made against multiplicity of laws. Charles Evans Hughes more than once has warned the country against the folly of our law-milling; with him and men like Root and Taft there stand the expressed opinions of our thinking statesmen, lawyers, and our law-enforcement officials.

Various estimates have been made from time to time by competent observers and statisticians of the number of laws passed each year by Congress and the state legislatures. Senator Moses, of New Hampshire, says that 20,000 bills were introduced within two years into Congress, and about 40,000 into state legislatures. A New York attorney, who has combed the estimates, informed me that last year more than 10,000 new laws were entered upon the statute books of the nation.

It is becoming evident that this stream of law is neither curative nor tonic. Much of it is advertised as a nostrum for social ills, much of it is patent medicine to recreate mankind overnight, much of it is to goose-step human beings toward perfection, much of it is more evangelistic than governmental,

and most of it, though conceived in the high purpose of a few to make others as good as they, whether the others like it or not, does not stop with being merely futile, but becomes, by unforeseen but inevitable forces, a poison stream flowing into our life.

It makes for confusion. Most of such laws are badly, hastily drawn, passed by the demand of an organized minority working when the majority are asleep. The great mass of social will did not put in a requisition for such laws and will not help in their enforcement. Some of the laws are contradictory. A Southern state, in attempting to draw an anti-trust law, inadvertently so phrased it that it made it a crime for partners in a retail store to talk over the prices at which they could sell a new invoice, for instances, of gentlemen's neckties.

It makes for multiplication and corruption and conflict and inefficiency in law-enforcement agencies. It creates little and big bureaucracies with busybody powers, exercised with all the irritations of nagging paternalism. The poor, dumb, blinking taxpayer often does not realize it, but it adds to his burden, because the attempted enforcement of every minority or goose-stepping law creates new public jobs. And already about one in every twenty citizens of the country is on the local, county, state, or national pay roll.

But above all it creates disrespect for law—just as the constant mouthings of a nagging mother who fails to make good her “don’t’s,” creates utter dis-

respect for authority and actually invites wrongdoing and defiance.

One of the three greatest statesmen in Europe once said to me, "We do not need more programmes; we need better performance. We do not need more laws; we need better men to carry out those we have already." I spent four months last year observing the turning of the tide of opinion in Europe against bad legislative and toward good administrative government. I saw the realization of baffled peoples that the world did not need more government but less; not more attempts to legislate individual character but fewer; not more plans to remake the world on paper but an abandonment of such nonsense. And here where our tendency to regulate, and introduce millenniums and panaceas by law, and to say, "Goose-step thou as I goose-step!" exceeds any other in the eternal governmental failures of a like kind, I have found the beginning of a revolt against the kind of law which makes law-breaking a national vice.

If we have more laws than our police, our prosecutors, and our overcrowded courts can enforce, or if we have trivial or dead laws, or those which have not sufficient support of the people to make the laws enforceable, this is also a fact, just as the day of the month is a fact. It does not exist because I wish it to exist. It merely is a fact, and such a fact may make ridiculous the solemn statement that we must enforce all the laws.

Says Federal District Attorney Buckner, of New York:

We cannot enforce these laws [the variety which he is asked to enforce] with our present machinery. We are crushed under them; we have to pick and choose.

This is a statement of honesty and frankness in great contrast to those made to me by certain mayors and police chiefs who are driven by political pressure to say, as they beat themselves on the chest, "We are enforcing all the laws. It is not for us to pick and choose. The law is the law."

If these men told the truth, or, let us say, to be kind to them, if they knew what was going on, they would say, "Of course we can't enforce all the laws, and we are not doing it, if the truth must be told. There are too many laws. Some are too silly. The pressure on us to keep after the enforcement of this or that personal-conduct law takes our time from protecting society against the crook and the real criminal. The real truth is that in America the laws themselves are often the real breeders of criminals, blackmailers, corruption, grafters, and parasites; they are sometimes the real source of new gunmen, new days of violence and rapine, new recruits of youth in vice and crime, new recruits of older men and women to a sickening hypocrisy."

Gen. Lincoln C. Andrews, who is the principal prohibition-enforcing officer of the Government, in his speech at Trinity College commencement, said much more of the danger than I have said.

He asserted of the prohibition violators:

They have established, in effect, a new industry, gradually becoming organized, employing lawyers, gunmen, detectives, and intelligence agents operating in defiance of government. . . . An outlaw business that exists, and only can exist, through bribery and corruption, a business that must sneak into many phases of industry and government, and by bribery corrupt the honest souls of their agents.

I cannot say that it is a pleasant fact to find, as I have, that in various sections of the country the average mind distinguishes between the enforcement of normal laws and enforcement of goose-stepping laws. It may be unfortunate, and it may be immoral, to make the distinction between one kind of law and another. I am not settling that question; I merely say the distinction is made. I found it everywhere in the minds of men and women.

When I was in Cincinnati, in April, 1925, a trial was going on of a bootleg blackmail ring involving forty-eight detectives and policemen and twenty-three state enforcement agents. Out of a total of seventy-one, fifty-five had pleaded guilty. The ring, it was believed, had made a profit of \$1,500,000. The judge who sentenced some of these miscreant officers of the law said that the men had not accepted money to permit the escape of criminals, burglars, and hold-up men, and other types of violence in crime. He said he believed that the men had been true to their positions in that regard, but that, by a curious twist of mentality, they had been

found to view the prohibition law as not being "in the category of other crimes."

Discussion of the prohibition law and its enforceability, or its wisdom, is not the purpose of these pages, but the judge who was so perplexed ought to know that even the average law-abiding citizen, whether he should or not, does not in fact regard it "in the category of other crimes." Wait! If it is necessary to take an example, let it be the chief prohibition-enforcement officer of the country—General Andrews. He is also reported in his Trinity College address as distinguishing the law which he is enforcing.

He said:

Government recently took a daring, determined step in the regulating of community life. For the improvement of social and economic conditions it, in effect, wrote an eleventh commandment for the conduct of the individual.

Whatever the law may be which may be described as a "commandment," whether it be the eleventh or the twenty-six thousandth, whether it be supported by all of us or opposed by all of us—we would be utterly untruthful if we failed to admit that, no matter how morally indefensible, breaches of it do not fall into the category of other crimes. The difference between normal governmental laws and "commandments" as I have said before is all the difference between forbidding a man to step on another man's toes and forbidding a man to step on his own.

The tragedy is not that men fail to distinguish

between the two kinds of laws; the tragedy and damage are done when there is failure to distinguish between them. This is because by breaking the "commandment" law, the wrongdoer creates a precedent for breaking the normal laws which protect property, persons, and peace. After months of investigation, and without now entering into the prohibition question as to its intrinsic merits, I would be blind to facts if I did not recognize that when Government goes from laws to "commandments," whatever the gain may be, there are also some costs. One of these costs—and it is a fact just like any other fact, which all of us must face—arises from the truth that goose-stepping laws put a premium on blackmail, corruption, and crime rings, and have added, and will add alarmingly, to the criminal population and to the rising crime tide in the United States.

If the parent loses control by nagging and harassing, so also governments may lose rather than gain control by multiplicity of laws, or sometimes by so-called laws which are really "commandments" to goose-step personal conduct, or even to commandeer personal intelligence and thought. We are not lacking in examples of laws which made it possible to arrest two children who played old maid or slap jack on a railway train in one of our states. We can all point to attempts by indictment to suppress one side or the other of historical, intellectual, or scientific controversy.

But like the usual nagging parent, at the same time that we write our multiplicity of laws and our busybody or trifling statutes, we allow our authority, our discipline, and our control in vital matters to rest on antiquated laws and feather-duster authority.

One prosecuting attorney writes me:

We are more concerned with laws punishing a moving-picture exhibitor who shows a murder on the screen than with laws which punish the man in the audience who then and there actually commits a murder.

Without mincing words, the conclusion of any one who searches the United States for the causes for our scandalous crime record must be that one of the guilty elements is the law itself. I am not speaking of the administration of the laws. In another chapter I will treat the subject of methods of prosecution, the action of courts, the practice of criminal attorneys, the loopholes in the bail and probation system, the holes in the jury trials, and the farce of the expert witness with his gibberish. Just now I am scrutinizing, not the administration of criminal laws, but the laws themselves.

My brother attorneys, as they are called, may look in vain in these paragraphs for a learned treatise on the reform of the criminal law. I am not writing for them. I have neither the space nor inclination. I merely wish to reach the average citizen and indicate to him in some degree why our criminal laws themselves must bear a part of the

blame for our criminal's paradise. I want to set forth what I have found in our laws which gives the criminal about eighteen laps head start in a race with the authority of the state.

To begin, it is wise to compare our criminal laws with those of other countries. We founded our criminal laws with special regard for the protection of the individual against tyranny. When the United States began to come into being there was an era in which the uppermost fear was the fear of tyrannical authority. Every safeguard possible against persecution and unjust prosecution was devised or stiffened. We, and the rest of the world in part, were fearful of authority. In our formative period we shared with others in a phobia against authority. We wanted to guarantee that no unjust charges would be successful and no man railroaded to punishment. Other countries, notably England, have since readjusted their criminal law and practice to fit new times and new needs.

In America, we still maintain a whole antiquated machinery which rattles with clap-trap. In England, judges have effective powers which serve but do not endanger justice; here our judges are still struggling under a net of restraints and checks which now only serve to make the wily criminal lawyer, with his objections, exceptions, pleas for delay and power to present obstacles, laugh in his sleeve. In England, judges may comment without much restriction on the cases before them; here judges must

weigh every word that they utter. I have received not one but several copies of addresses to grand juries sent me by conscientious judges in various parts of the country. These charges contain sound doctrine as to law enforcement, but there is something almost pathetic in the statement, in these sermons, of principles and truths which judges would be reluctant to turn upon some guilty defendant under trial.

In the days when we were building safeguards for the prisoner, we held the institution of the jury as some sacred, precious possession of our civilization. We conjured with the words "A man is entitled to be judged by his peers." To-day there is wide opinion that the jury system, as conducted, is not adding much of a safeguard to the innocent, although it is adding endless loopholes to the guilty. A judge who conducts criminal trials constantly has said to me:

"The quality of intelligence in our juries is hopelessly lacking. And the system of choosing them apparently is designed to exclude intelligence. First of all, various professional men are exempted from service. Then the power of the defence to challenge endlessly and reject intelligence and character in jurors, results in obtaining twelve men who often do not know whether they are afoot or horseback. When the psychiatrists are examining the criminal I wish they would examine the average juror. The other day I discovered one juror who had stood out

for acquittal, and I discovered that he did not know in what city the crime had taken place!"

The choosing of the jury has become a ridiculous proceeding. In the Shepherd trial in Chicago, in June, 1925, the examination of jurymen consumed three weeks and three days. How many persons were examined for the jury? Nine hundred! The overwhelming mass of opinion is that the exemptions from jury duty should be cut to the bare bone, that the challenges allowed the attorneys for the defence should be cut to the bare bone and that, while the laws as to jury trial remain as they are, the only hope of adequately punishing the criminal lies in an awakened public opinion which will flow into the jury boxes of the nation and give jurors a trace of backbone.

Judge Alfred J. Talley, of the Court of General Sessions in New York, tells me that he believes the truth of the matter is that the general spirit of lawlessness even enters the jury box, causing juries to disregard facts, and he believes the only cure for the criminal menace of our institutions is in an aroused public opinion.

His is only one of dozens of expressions which have come to me from judges. The Cleveland Foundation, which conducted a crime survey of admirable thoroughness, and the Cleveland Association for Criminal Justice, whose works already have pointed the way for citizen activity in every large community, have emphasized the barn-door open-

ing which unfitness, stupidity or corruption in juries gives to the criminal.

In face of the failure of the law to revise antiquated practices, the Cleveland Association for Criminal Justice says:

The most conscientious and efficient prosecutor cannot secure a conviction, and the most high-minded judge cannot properly sentence a convicted criminal, unless a jury finds him guilty of the crime committed. Too much stress cannot be laid upon the duty of the public to serve conscientiously and thoughtfully upon juries.

When the judge of a criminal court is called upon to censure severely, and even to discharge, a jury for failure to bring in verdicts of conviction where, in the honest opinion of the judge, the evidence clearly shows that the accused was guilty, it is apparent that responsibility for this situation rests in no small measure with the public as a whole. In a previous bulletin, the association referred specifically to a number of such actions by judges of both the Federal and County Common Pleas Courts. An even more flagrant example of this situation occurred in the Court of Common Pleas during the past term, when Judge Dan B. Cull felt called upon to censure harshly the jury in the Kosienski murder case, when, after twenty-six hours' consideration, the jury disagreed. The association fully concurs in the reprimand by Judge Cull to the jury in this case:

"My sense of public duty, my personal experience in criminal court, my study and thought on the subject of crime and its treatment, compel me to voice indignant condemnation both of juries which refuse to convict and of citizens whose support is lent to movements having for their object the weakening of the courts. I voice special indignation against a protest meeting announced in the public prints as being called for this evening, in which certain persons, it is said, will denounce a jury sitting in this very court, with one of my ablest associate judges presiding, for having found a man guilty of murder in the first degree. I believe this meeting has had effect on your minds in this case."

Referring specifically to the case on trial, Judge Cull said concerning the defendant:

"He confessed his crime, but you refuse to believe the police officers upon the defendant's unsupported and weak statement that he was mistreated. I call this wrong, and I discharge this jury with the statement that things have come to a sad pass in this county when it is necessary for a judge to say the things I have felt called upon to say."

The meeting to which Judge Cull referred was that of the so-called All-American League announced in a poster as the *Liska-Trial Mass Meeting*.

Of course this was another example of the blithering sentimentalism which some men and women pour over the criminal. The governor of one of our largest states tells me that one of the sickening experiences of his office is to be called on by jurymen who, because of irrefutable evidence have convicted a criminal, but come to add their request to those of weeping relatives to have the man pardoned or paroled so that he may not have to suffer. Of course, jurymen selected by the defence because of their susceptibility to emotional attack are only human—indeed, usually weaker and "more human" than the rest of us. From first to last, all the emotional appeal is on the side of the criminal.

Who appears, pale and suffering, before the eyes of the jury accompanied by weeping wife and little ones? Not the honest man who has been shot down. No! The criminal. Whose pathetic life story is told by the attorneys? Not the pathetic life story of the victim. No! The criminal's.

Whose attorneys, friends, relatives appear dripping tears into the laps of governors or parole boards? The criminal's. The prosecuting officer is not there. The police are not there. The old mother, the widow, the little children of the victim are not there. The witnesses seeking mercy are the criminal's witnesses, sometimes professional "old mothers" hired for the day. The victim is not represented, the young boys and girls, who are entitled to the example of punishment for wrongdoing, are not there.

As one judge said to me, "The criminal's psychiatrist is there to say that the criminal is a mental defective, a neurotic personality, a borderland case, an abnormal psychic idiosyncrasy, and that he should be given a round trip to Bermuda to remove his complexes." Everyone needed is there—except the state and the victim. And to a certain degree the one-sided emotional barrage is launched against juries hand picked by the defence. Everyone is familiar with the success of defendants whose affluence allows the expenditure for sufficient ammunition to conduct a maximum of emotional barrage.

In addition to such a reformation of the jury system as law may obtain, I find that experienced heads say that we need to stop the abuses arising from the experts and their testimony. It is not necessary to go to lawyers to hear of the absurdity of experts—particularly those who deal in judg-

ments about those elusive, intangible subjects—the human mind and personality; everyone expects in a large sensational trial a battle between two camps of experts. There are new recruits to the armies of the two sides! Every time the defendant spends a big fee to have some mind doctor, as the crooks now call them, the state must dig into its pocket to pay the expense of bringing a new 75 centimetre authority into action. The phrases describing mental states multiply and amuse the public. The juryman who never knew before that he had such things as subconscious mind, inhibition, suppressed complex, neurotic typhoon, learns something new. Here is not only a field of reasonable doubt; it is a field of unreasonable doubt. I have discussed with a number of judges and received, in a number of letters, the suggestion that expert testimony should come only from a commission appointed under a proper law, so that an end could be put to the kind of contradictory opinion described only adequately as testimony of “a blind man looking around a dark room for a black hat which is not there.” No one wishes the wrong disposition of a case of a man or woman not responsible for his or her acts, but the escape of criminal responsibility because of the testimony of experts hand picked and rehearsed in advance has now become farcical.

One of the old safeguards of the defendant is the rule that he should not be compelled to testify.

Incidentally this rule, as Commissioner Burdette Lewis, of New Jersey, points out, often makes it impossible to introduce the defendant's records and papers. It is admitted that the state has no way to compel the prisoner to testify except by torture, but if he fails to testify on demand the jury should be allowed to draw such inferences as they may—as is now the case in Ohio. Certainly the records and papers of the defendant should be introduced in evidence if the prosecution desires. Charles Evans Hughes has emphasized in a public speech a reform of this general nature.

As the American Bar Association report, made by the Charles S. Whitman committee, well says, "Our procedural criminal laws are outworn and cumbersome." It goes on, however, to charge responsibility again to the sleeping of our citizenship which can see under its nose the growth of daring, power, and defiance of criminals unparalleled in other lands. It says:

Only the belief that nothing can be accomplished without a full realization of the situation by the American people impels us to present the figures and statistics embodied in this report, and to call the attention of this Association to the striking contrast existing as between the situation relative to crime in America and in these two countries of Europe. Behind every defect in the enforcement of our laws, more dangerous than any fault in the machinery of the law, more powerful than any other factor in accounting for the number of crimes committed in this country, is the apathy and indifference of the American people. The first great work to be accomplished in bringing about a better enforcement of law must be the awakening of

the public to a clear sense of the situation and of their responsibility for it. Improvement in our laws can accomplish little unless accompanied by a determination on the part of our citizens to have those laws enforced.

So much do I agree with this that I have undertaken to do my part in the "awakening." But the lawyers and lawmakers must also do theirs. The clipped powers of the American judge can be remedied by law, not by opinion. The plain need of doing away with the political demands which trail the heels of even the best of the elected judges where judges are now elected, and of substituting an appointive judiciary, can be assisted by public opinion, but in the end must be dealt with by the laws. The crying necessity of attracting and rewarding a sufficient number of good judges with salaries commensurate with their best services to society must enlist public opinion, but the salaries will not be paid by opinion. Only appropriations pay salaries. The archaic forms of indictments, so different from the simple forms in England, and technicalities which delay, muddy, and defeat the course of justice in their results, may anger and irritate public opinion, but the cure of the evils, because it requires some knowledge of law, requires the active aid of lawyers and lawmakers.

Chancellor Herbert S. Hadley, who had great experience as prosecutor and as governor of Missouri, and whose legal mind is incautious enough to travel straight courses, gives no particular encour-

agement to those who expect the lawyers of the nation to run with the ball. While the Whitman report asks public opinion to do the work, Hadley takes the position that public opinion must first realize that, with the criminals romping away, the legal profession maintains an almost unwarranted calm. He has said:

As a general rule, the reform of a system is not likely to be made by those who administer it and consider themselves responsible for its existence. But when the actual facts showing the archaic character of our system of criminal procedure, the indefiniteness and uncertainty in the substantive law of crimes, and the ineffective manner in which our system is functioning are considered, we must conclude that the complacency and satisfaction of the appellate-court judges are unwarranted, and that our system of apprehending and prosecuting criminals stands condemned by results, or rather, by the lack of results, incident to its administration.

It is not necessary to break down the safeguards of the accused in order to close a great number of the purely legal holes which now cause the police to say, with a great measure of truth, "We catch 'em and the courts and prisons let 'em go." It is not necessary to have the testimony of the police; it is possible to find judges of the frankness of mind to recognize that it is the law itself which sometimes defeats justice.

Judge Walter B. Jones, of Alabama, for instance, sends me a copy of an address from which I quote excerpts:

It is time to quit sweeping ugly facts under the bed; we might just as well speak plainly. We are winning every fight except that against crime. . . . We are forced, if we are honest with ourselves and our country, to confess with humiliation that the administration of the criminal law is a farce and a delusion. No other country on the globe would stand for it one minute. To those who say that crime is decreasing and that there is no cause for alarm on account of criminal conditions in this country to-day, I give the words of a distinguished and thoughtful Illinois trial judge: "We have a lawless and a law-ridden country. . . . Our administration of the law grows weaker day by day and the felonious army increases in number and achievement." I quote from Justice Goff, of New York. "It can be safely stated that in the history of this country we have never been before confronted with anything like the criminal conditions we have to-day."

If I were asked to name two causes which stand out above all others for the inefficient administration of the criminal law, I would unhesitatingly name delay and technicality. . . . Ten years in the penitentiary, given a year after the crime, does not have the deterrent effect that one year in the penitentiary given immediately after the crime has. Lawyers who practice on the criminal side know that delay is the best witness for the defense.

If any average man wishes to know the truth about the archaic technicality of our law, and sometimes its procedure, he may read down the amusing examples of action by appellate courts given by Judge Jones. Many of them had already been brought to my notice from various sources.

A defendant was convicted of stealing under an indictment charging the theft of \$100 lawful money. The conviction was set aside because the indictment did not say lawful money of the United States. The court gave as the reason for granting the de-

fendant a new trial that the victim might have been carrying around Mexican money.

A defendant was convicted of stealing a pistol under an indictment which described the pistol as a Smith & Weston revolver. A new trial was granted, because the proof showed that the defendant only stole a Smith & Wesson revolver.

In Chicago a notorious criminal was convicted of stealing fifty-nine dollars. There was never the shadow of a doubt as to his guilt. The verdict was set aside on appeal because the jury in their verdict did not find the amount stolen.

In Georgia a defendant was convicted under an indictment which charged that he stole a hog that had a slit out of its right ear and a clip out of the left. The appellate court granted the defendant a new trial because, while it was proved that he stole the hog, the evidence disclosed that it was a hog with a slit out of its left ear and a clip out of its right ear.

In another case where a defendant was convicted of a serious crime the conviction was set aside by the higher court because the word "the" was left out of the concluding phrase of the indictment, "against the peace and dignity of the state."

In another case a defendant was convicted of stealing a pair of boots. The judgment of the trial court was set aside by the higher court because it appeared that though the defendant had stolen two boots he had stolen two rights.

In yet another case a conviction for larceny was set aside because the indictment averred that it occurred in a storehouse when it should have used the word "storeroom."

In a Montana case a verdict of guilty of larceny was set aside on appeal because the trial judge instructed the jury they must find intent to steal instead of a criminal intent.

Under another absurd ruling a conviction for stealing was set aside because there was no proof that 800 pounds of cotton was a thing of value.

In yet another case involving some offense along a public road, the conviction was set aside because, while the proof showed that the road had been used for thirty years as a public road, it did not show that the road had ever been formally dedicated to the public.

There is an Alabama case which holds that the omission of the letter "l" from the word "malice" in an indictment for assault with intent to murder renders the indictment bad, and the conviction of a defendant under that indictment was set aside.

In another Alabama case it was held that an indictment charging that murder had been committed "with malice aforethou" does not allege "malice aforethought," and that the indictment was legally insufficient. The court noted in that case "great precision should be observed in matters which vitally affect the life and liberty of the citizen." In

England the judge would simply have corrected the indictment with his pen and gone on with the case.

In another case an indictment was held bad which charged that the defendant broke into and entered the "dwell house," instead of "dwelling house," of another.

In the trial of a criminal case where the judge charges the jury that they cannot convict the defendant unless they believe beyond a reasonable doubt and to a moral certainty that he is guilty, it is reversible error for the court to refuse to charge, also at the request of the defendant, that if there is a probability of the defendant's innocence he should be acquitted.

In another case the indictment charged that the defendant obstructed a public road "by a fence, bar, or some other impediment," without specifying what constituted the "other impediment." The defendant went to trial knowing that he was charged with obstructing the public road, but because the indictment did not say in what this "other impediment" consisted the judgment of conviction was set aside.

In another case a defendant was charged in the indictment with stealing a cow. The evidence proved him guilty of stealing a bull. In either event the defendant was guilty of grand larceny. The higher court, however, set aside the judgment of conviction.

The mere faults in technical formal indictments,

however, absurd as they are, are only one point where the law becomes the criminal's accessory. The fact is that the criminal's attorneys and the state's representative play a drawn-out and expensive game in which the archaic laws give almost every advantage to the wrongdoer.

While I was in St. Louis, Chancellor Hadley addressed the Bar Association, and he set forth twenty-three points of law or procedure by which the murderer, gunman, and crook have a distinct advantage over honest society:

1. The defendant can insist on a speedy and public trial and profit by denial of this right. While the state may urge a public trial, it has no means to enforce it.

2. The defendant must be advised as to the nature and the cause of the charge against him. The state has no right to be advised as to the nature of the defense.

3. The defendant may change his defense during the trial, but the state cannot amend the indictment or information except in matters of form, and even this right does not exist in a number of states.

4. The defendant must be given a list of the state's witnesses before trial, but the state has no right to know of the witnesses for the defense.

5. The defendant has the right to require the state to present its case in preliminary hearing, but the state has no right to require the defense to be shown.

6. The defendant has the right to disqualify by affidavit the examining magistrate. Generally the state has no such right.

7. The defendant may challenge the members of the grand jury for cause, but this right is not generally enjoyed by the state.

8. The defendant can ask for change of venue to another county on the ground of public prejudice, but with few exceptions the state cannot do so.

9. The defendant may disqualify the trial judge by affidavits alleging prejudice, but the state with few exceptions cannot.

10. In practically every state the defendant has more peremptory challenges as against the trial jury than has the state.

11. The defendant may employ as many lawyers as he is able to hire, but the prosecution in most states cannot have special counsel.

12. The defendant may comment upon the failure of any state witness to testify, but the state cannot comment on defendant's failure to testify.

13. The state's witnesses may be cross-examined without limit, while in many states the defendant can be cross-examined only as to matters testified to on direct examination.

14. The defendant generally is accorded the right to take depositions of witnesses, but generally the state does not possess the same right.

15. The defendant can use a transcript of the record of preliminary hearings or coroner's inquest testimony, but the state except under special circumstances cannot do so.

16. The defendant is presumed to be innocent, and may be acquitted on reasonable doubt as to criminal intent even when the act is proved or admitted; the state must prove guilt beyond reasonable doubt.

17. A defendant pleading insanity is not required to show it beyond reasonable doubt, but only by a preponderance of testimony, and in some states, if a reasonable doubt exists as to the defendant's sanity he must be acquitted on the ground of insanity.

18. The defendant has full right to appeal from all adverse rulings during the trial and from the verdict of guilty. The state has no right to appeal from a verdict of not guilty, and only in a limited number of states can it have the rulings of the trial court upon questions of law reviewed, and then only as a precedent in other cases.

18. The defendant may plead former jeopardy, if the state's case fails through any mischance, such as absence of a witness; but the state, except in exceptional cases, cannot show previous convictions of the defendant except to impeach his testimony.

20. The defendant in many states can prosecute an appeal at

public expense, while the state rarely collects costs from defendant even when the conviction is affirmed.

21. The defendant may ask for reversal of conviction on any grounds, including severity of punishment imposed, but the state cannot on appeal ask that the punishment be increased, as is the practice in England.

22. A defendant convicted of crime usually has the right to a hearing as to his sanity after conviction, though the state cannot ask for the reopening of a case where defendant has been acquitted on the plea of insanity, even though it is prepared to show that the defendant has regained his reason.

23. If all other advantages and methods of which the defendant can avail himself fail to prevent conviction and punishment, he may ask the governor or pardoning board for reduction of sentence, parole, or pardon, and as shown by the record of almost every state he may often secure such clemency.

No doubt some of these advantages given a criminal are deserved, but others are clear examples of first aid to the injurers. This rescue work to save criminals and the crime ring from punishment is the free contribution of law to lawbreaking.

The law is not only at fault in not remaking its machinery and its procedure, but even the criminal laws themselves in most jurisdictions are old and outworn and—astonishing as it may seem to the citizen who is blackjacked, shot, robbed, cheated, and terrorized—their revision, together with various parole legislation, tends to make the criminal's punishment not more, but less.

Some of the reasons of the American Law Institute for making a beginning by drawing up a model code of criminal procedure disclose the fact that the law itself has had some part in our crime tide,

let the complacent among lawyers and judges say what they will. Dr. William Draper Lewis says:

The necessity for the preparation of a code containing model statutory provisions and rules of court relating to criminal procedure has been pointed out by practically every bar association and committee that has undertaken recently to investigate the administration of criminal law. The defects in criminal procedure are the chief defects in criminal justice, for the improvement of which the public has a right to look to the American legal profession.

It is doubtless true that had we proceeded, on the organization of the institute, to take up work in criminal procedure at once, the wide public belief in the importance and necessity of reform in existing conditions might have deterred the attention of the bar from the restatement of the law, which the institute was primarily founded to promote, and which always will remain our foremost task.

Furthermore, the publication of the report of our committee on *A Survey and Statement of the Defects in Criminal Justice* will go far to remove any danger that the public will think that in improving criminal procedure we are removing all defects in criminal justice, as the report emphasizes the fact that many of the main sources of those defects are beyond the power of the legal profession to remedy, and that the remedy lies rather in the people of the United States as a whole, and in scientific investigations of social conditions and the results of our penal system; investigations which the lawyer, merely because he is a lawyer, is not especially qualified to undertake.

But even such a model code, requiring three years to draw, though it is a step toward offering to our forty-odd separate states opportunity to adopt efficiency and some helpful uniformity, does not affect the laws defining crimes and their punishment.

Justice Harry E. Lewis, of the Supreme Court

of New York, writes from Brooklyn. He describes the absurd situation in which the criminal law apparently relaxes its severity in direct ratio to the increase in crime. He says:

The sentencing provisions of the penal law are wholly inadequate and not commensurate with the crimes which are committed. The sentences of to-day are practically one half of what they were thirty years ago. This reduction in sentences has been responsible to some extent, in my opinion, for the increase in the vicious or more serious crimes.

By way of illustration: The punishment for robbery in the first degree, committed by a first offender, is the indeterminate sentence of not less than ten years nor more than twenty years. With compensation deducted, the offender serves but seven years and six months. In 1891, the maximum punishment for robbery, first degree, with deductions for commutation, meant incarceration for thirteen years and seven months. Practically the same reduction is found in all sentencing provisions of the penal law. The indeterminate sentencing provisions are misleading; in fact, the indeterminate sentencing law is not indeterminate at all, for practically all offenders are liberated at the expiration of the minimum term, with compensation deducted. A fourth offender, under the provisions of the penal law, may serve no more than a first offender. A second offender is compelled to serve more time than a fourth offender may serve.

All over the country there is the mutter of protest against this tendency to let the criminal fall more softly. Organizations like the American Bankers' Association, the New York Board of Trade, the American Institute of Accountants and hosts of others, have sent protests against laws, procedure, and practices which invite more crime. As one judge writes me:

The time has come to say to the criminal, "Stand back; you cannot get away with it."

There has been no attempt in this chapter to touch upon the loopholes of the bail system, the tricks and strategy of criminal lawyers, the leniency of judges in the matters of suspended sentences and probation, the failure to identify old offenders, the trading processes by which the wise criminal agrees to plead guilty to a more minor offense, or to restore property, if he can save himself a severe penalty. I have said nothing of the manner in which complainants or witnesses are threatened, bought, or worn out, or of the use of court injunctions to protect vicious resorts from the police. All these matters are to be treated later.

The subject of this chapter is the contribution that law itself makes to crime or to the saving of the criminal from punishment. And that contribution is no small contribution.

Too many laws.

Crime-breeding "commandments" to goose-step individual conduct.

A machinery of justice unfair to judges, lacking in power to make juries efficient and retaining outworn laws and practices which now serve to protect the underworld.

A tendency to reduce rather than increase punishments, which persists in face of a rising crime tide.

These are the signs which tend to bring guilt to the law itself.

Foolish and feeble are the parents or governments that nag with don't's, but fail to find a way to maintain authority and discipline.

CHAPTER VIII

OUR CRIMINAL GOES TO COURT

THIS is from a clipping of a California newspaper under the heading "Last of Auto Theft Ring is Sentenced":

The end of one of the criminal rings came to-day when —, of San Francisco, entered a plea of guilty to violation of the Dyer Act. He, with seven others, was arrested in November, 1921, [look at the date] and indicted on more than thirty counts of transporting stolen automobiles across the Arizona-California boundaries. They had a rendezvous in the mountains where they drove stolen Fords and interchanged their parts, thereafter disposing of them in various parts of California. More than 100 thefts were traced to the band.

— was fined \$100.

The other defendants were —, —, and —.

The gentleman who sent this clipping writes:

The inclosed story does not state what happened to the other defendants, but we may conclude that they either were made to stand in the corner for an hour or were deprived of dessert at dinner for two whole successive nights.

According to this story, it took nearly four years to punish one guilty man, and if 100 automobiles were stolen, the fine imposed taxed one of the thieves about one dollar a car—much less than the state taxes the rightful owner.

A bootlegger runs enough liquor into the United States to make him a profit of \$250,000 a year. Men on his trucks start a journey with \$5,000 small change in their pockets to distribute to law-enforcement officers who are paid as low as ten dollars a day. The bootlegger is caught, found guilty, and is fined. He goes up to luncheon at a certain restaurant, and for present and past services tips the head waiter exactly what he has been fined by the judge.

I quote from a press-service dispatch:

Chicago, June 6. J. K., wealthy real-estate dealer convicted of manslaughter for the killing of a man with his automobile, will not have to serve a prison sentence. When informed that K. had made a settlement for \$12,500 with the family of the victim, Judge X granted a new trial, then ordered the case stricken.

Director Butler, detailed to take charge of the police of Philadelphia, says:

When a crook with political backing is pinched it usually means a battle of ten years before they send him finally to jail. There is one crook—a real one—in Philadelphia to-day, out on bail, who has been convicted and a new trial denied, but who has not been sentenced because his lawyer is off on a trip to Europe.

One judge of the Court of General Sessions in New York during twenty years has had 20,145 criminal cases. Those which came to trial numbered 2,134, or about one out of ten.

Another judge writes that during a May grand jury in 1925, out of 621 cases, 156 were dismissed

because of errors or carelessness of the state's attorney.

According to the Chicago Crime Commission, at the beginning of 1924 there were 160 defendants in the Chicago Criminal Court charged with murder or manslaughter whose cases were pending, and sixty-six of these were out on bail.

In an Eastern city the most famous and dangerous forger in America was arrested, and jumped his bail of \$15,000. He was apprehended and his bail fixed at \$40,000. On a writ of habeas corpus proceeding, a higher court, with the record before it, reduced his bail to \$10,000.

E. L. B. was convicted of grand larceny in Alabama in November, 1922. The bill of exceptions was not filed until February 25, 1923, and this delay was permitted by law. The record was filed in the Court of Appeals on May 5, 1923, and the Court of Appeals decided the case on October 16, 1923. The Supreme Court upheld the judgment on December 20, 1923. The original trial consumed one hour. Thereafter a year elapsed, and at the end of the year E. L. B. jumped his bond and went over the state line.

These are the samples of the loopholes in our system of prosecuting criminals, taken from a file which has been made up from instances in most of our states.

I do not wonder that the police say, "We catch 'em and the courts and prisons let 'em go."

I do not wonder that, for the criminal who belongs to a ring, mere arrest has little terror.

I do not wonder that youth does not stop to think twice.

My only cause for wonder is that at the moment when our citizenship should be principally interested in restoring swift, certain, and sufficient punishment, and bolstering up a lame machinery of law enforcement, so many benevolent persons are writing to ask me to give exclusive attention to those more remote cures for crime, such as eugenics, psychoanalysis, education, and restoration. For fundamental causes and fundamental cures no one has more respect than I. But I have learned that the present need to stop our national crime tide is to restore that simple cause-and-effect principle—that wrongdoing means punishment. That is a primer lesson known to almost every human being, eugenically bred or not, psychoanalyzed or not, educated or not, rehabilitated or not. If the truth is looked at squarely, the swift-growing criminal population is making war on us. It is beating the police, the courts, and the prisons. Legal citizen activity is the only way to end that war on the side of law enforcement and order, and when a war is on I am not ready to advise the citizens of this nation to expect studies in heredity, mental levels, new school systems, or even the effect of removing infected teeth of prisoners to settle that war. The war will be settled only by a reestablishment of the

authority of the state and the restoration of law and its power.

"Everyone in the end may be law abiding through perfection and love," said one police chief to me. "But if they are not perfect to-day and haven't the love to-morrow, what's the answer then?"

The inference—the only answer, unless it is proposed to abolish police courts and prisons—is that our law-enforcement agencies must be jacked up to their task of deterring crime by citizen pressure, by public opinion, and even more by citizen organization showing determination. My experience over months of investigation is that police systems, courts, and the whole process of law enforcement brighten perceptibly the moment the citizen turns his eye their way.

Few are the persons to-day in the United States who will assert that our criminal-prosecution system does not need the citizen's eye and that it would not profit by hearing in good plain words that its workings are too often as ridiculous as those in the random cases I have cited. The situation has become farcical sometimes as to the laws which direct criminal procedure, but even more consistently absurd in their administration and practice.

The crime survey of the Cleveland Foundation, no doubt the most careful detailed investigation undertaken, has something to say of the forces required to bring about the needed reforms. It has been repeated over and over that the public must

awaken. They must, but the whole legal profession, unless it is to tolerate a blotch on its performance of duty and ethical standards, must help.

The brief of the Cleveland Survey says a truth which applies to nearly every city and every jurisdiction:

The replies to a questionnaire sent to all the members of the Cleveland bar developed the startling fact that, except in extraordinary cases and with very few notable exceptions, the better members of the Cleveland bar ignore criminal practice entirely. Of the replies received, 40 per cent. accepted no criminal cases whatsoever, while only 3 per cent. took criminal practice regularly. The reasons given for not accepting criminal practice were in most cases financial, while others expressed ethical or æsthetic objections.

Mr. Alfred Bettman, formerly city solicitor of Cincinnati, concludes as to this avoidance of criminal practice as follows:

As a result, with some notable and praiseworthy exceptions, the practice in those courts is left to the lawyers of lesser sensitiveness regarding professional practices. The criminal branch of the administration of justice, dealing as it does with the protection of the community against crime, the promotion of peace, safety, and morals of the inhabitants, the lives and liberties of men, and, therefore, from any intelligent point of view, the more important branch of the administration of the law, has become a sort of outlaw field which many a lawyer avoids as he avoids the slums of the city.

Criminal practice must be made a field in which the lawyer and the gentleman—in the American sense of that word—can feel at home. And one of the courses which might promote this is for the lawyers, who are both lawyers and gentlemen, to return to the first principles regarding the position of the lawyer as an officer of the law and accept criminal practice. If the man accused of crime knows that he can obtain first-

class talent at a reasonable compensation, he will have no excuse for taking his case to the shyster or police-court hanger-on, and both the courts and prosecutors will then have some justification for feeling particularly suspicious and cautious in cases in which the defendants retain unscrupulous or disreputable lawyers.

The Cleveland brief says also:

In the last analysis, the bar cannot escape in a large measure the responsibility for the quality of the administration of justice. Judges and prosecutors are recruited from the legal profession; the prevailing standards of the bar inevitably influence the quality of judicial service, and the public must largely look to the lawyers, with their intimate knowledge of and association with the courts, for informed leadership. The bar constitutes a specially privileged group which can influence and inform public opinion. The survey gave especial attention to this problem, the reports on the criminal courts and prosecution refer very definitely to the responsibility of the bar, and Dean Pound in his summary volume places great emphasis upon it.

The quality of the lawyers practising on the criminal side, in my opinion, controls in great degree the character of work of our courts. The quality of judges, of course, is a larger factor, determined somewhat by the present inadequate pay and by the persistence, in some places, of the system of electing judges for a term, so that they owe their selection to political machines or bosses, instead of giving them the independence of an appointment for life. Furthermore, in our out-dated system the judges are stripped of powers and freedom now given to judges in England and other lands. This fact, together with the multitude of

technicalities and outworn safeguards, yields an amazing number of advantages to the criminal and to his attorneys.

As a result, there is to-day, if one calls a spade a spade, a whole technique of criminal practice to dig numerous tunnels of escape for the guilty.

It has been amazing to me to find out how many persons in the United States write to me that the criminal lawyers are to blame for our criminals' paradise.

One man, who has long been a court officer, writes:

The criminal would not get away with it if it was not for his accessory, the average criminal lawyer, who aids and abets his getaway almost as much as the pal who watches and gives a signal when the police are coming.

No doubt there are conscientious attorneys practising on the criminal side, men of ability and wide human understanding who will not willingly defeat, but indeed faithfully serve the general welfare. But those who are not conscientious use a wide range of loopholes. The worst of it is that many of these loopholes are quite within the law.

I have already written of the antiquated laws or the weakness of laws which give advantages to the criminal. In New York State the criminal code dates back to 1841; in almost all jurisdictions, though the defendant can appeal, the state cannot; almost everywhere, therefore, the judges are fearful of making errors which will be the basis for re-

view and reversal by a higher court in behalf of the criminal, but are almost unrestrained in making rulings against the state, because the state has no appeal.

The law gives enough disproportionate advantages, but let us look at the tricks of the trade which are used to turn the machinery of the law to the purposes of those who would evade punishment. It so happens that I have been in court rooms recently when two defendants in cases which have appealed to the sensational interest of the public have come up for pleading. In neither case did the prisoner have the money to pay counsel, and in each case the judge asked the prisoner if he desired an attorney assigned to the case. On each occasion the answer of the prisoner was prompt and emphatic.

Each said in substance, "I would like to have —— for counsel."

The man named is a criminal lawyer who has the reputation for getting the criminal out of his difficulty regardless of his guilt. And it is only fair to state that even a large part of the public often shows admiration for the wiles of this great criminal lawyer, not as they uphold justice but as they defeat it. The trial of American criminal cases no longer appears to the public as the workings of an efficient machine of justice; on the contrary, the criminal court is regarded as the scene of a game of wits and wiles until the chief interest is

not in speedy trials and the giving of punishment to the guilty, but in the moves and countermoves between the prosecution and defence. It is a game. So fascinating has it been made by certain of the most agile criminal lawyers that newspapers treat it as they would a sporting event, and if admission were charged the gate money would sometimes pay a year's cost of running a county.

One judge said to me:

"We are in active danger in America of making a national sport of criminal trials. The determination of guilt or punishment becomes secondary to the forward passes and third-base put-outs and the big scene in the third act of a sensational court case. The extent to which we have allowed our court procedure to become thus debased would not be tolerated in any other civilized country. I have had requests from photograph-news services to allow flashlight pictures in my court. And even the moving-picture people want to take films as they would of a champion prize fight. Sometimes the idea that we are fixing guilt is lost and is replaced by the idea that the whole land is watching the final strokes, plays, and poses of the defence."

But though there may be many who see a criminal trial as this judge sees it, few are the average citizens who know how much of the game goes on unseen and unheard, or how many of the successful moves to open the loopholes occur behind the scenes, or in that great mass of cases where there is absence

of dramatic staging so that the public never knows or cares about the case.

The first rule of the criminal lawyer is to shut the mouth of the prisoner and then get him out of the hands of the authorities. No one wishes the innocent confined in jail awaiting trial, but in this country we have gone far beyond others in providing bail for accused persons. Not only do we provide it, but on the whole, through error of judgment or lack of backbone or other considerations, many judges, quite generally, provide it at marked-down bargains.

The results are curious. I have the example of one court where bail for a foreigner accused of an assault resulting from resenting attentions of an undesirable suitor of his daughter, was fixed at a sum so high that there was no possibility of his raising it. The next case was of a gunman, an old offender, undoubtedly backed by a criminal ring which feared exposure. This second man, a professional criminal, had ample resources. He could have provided \$20,000 bail if need be. His share in recent robberies may have been several times any possible bail. The magistrate had lowered the bail from \$1,500 as set by the police lieutenant to \$1,000, and the judge of the trial court allowed this reduction to stand.

The wily type of criminal lawyer knows well enough that in his country the jumping of bail is

quite different from jumping bail in a state of Europe. Over there it is hard to slip out over boundaries without the proper papers to show. Here forty-odd state boundaries are free getaways. They offer even freer and more complete escapes from jurisdictions able to prosecute than most persons will believe. Extradition is expensive and often impossible. The ordinary criminal who succeeds in getting over a ferry or from one city to another often is as free as air. He may be put on the police list of men wanted in one state, but he may send for his pals and his girl and live a long criminal life in another state. With our present inadequate clearing houses and lack of centre of criminal information, an old offender from one state or city may stroll over into another, and even if he is arrested, say, for larceny, go before a judge as a first offender, agree to plead to some lesser offence or a misdemeanour charge, and so receive a suspended sentence or be fined—a mere tap on the wrist.

The practice of giving bail to professional crooks has some extraordinary results. One of these professionals took me, in a middle-western city, to meet an old bail bondsman, who has prospered keeping a small cheap hotel.

“When old F—— bails ’em out,” said the confidence man, “he makes ’em stay at his hotel. You ask why? Because he has a bill against ’em and if

they hang around idle, he tells 'em to go out to work the town. If they are strangers he'll introduce 'em to some guy who knows where work can be done."

In some cities the old straw bondsman, considered a great evil, has been replaced by corporations. Some of these corporations giving surety are of high standing; others have allowed practices little short of aiding and abetting crime. Responsible and conscientious prosecutors and police chiefs have told me that cases are not unknown when a man arrested for robbery or burglary has obtained his bail by putting up as security the goods he has stolen.

This is a small evil, however, compared with one which arises from a simple fact based not on any one's conspiracy, but upon the situation itself. Every prisoner released on bail is a man upon whom there is extraordinary pressure to obtain money. The very cost of raising the bail is a new financial load.

Then there is perhaps the criminal lawyer, who shakes his head doubtfully and says: "Well, goodness knows where you can raise the money. But if I am to go on with your case, you'll have to pay me at least what you already owe me. You'll have to get the money somewhere."

"Going to work" and "getting the money somewhere" are phrases which the crook interprets according to his lights. So that citizens may know something of what often happens when easy bail

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is given by the law and cheap bail by judges, I will set forth a portion of a list of actual cases taken from the records of one of our larger cities. In a two-year period, the whole list of the crimes committed by men out on bail total more than two hundred and fifty cases. Here is the short example from the middle of the list:

DATE OF ARRESTS	NAME	CRIME	RE-MARKS	RE-ARRESTED DATE	CRIME
1/13/22	R—, Mark	Grand Larceny	Bailed	2/20/22	Grand Larceny
2/8/22	P—, Julius	Grand Larceny	"	3/2/22	Grand Larceny
1/2/22	I—, Casey	Assault and Robbery	"	3/16/22	Homicide
3/30/22	R—, Philip	Burglary	"	4/4/22	Burglary
5/1/22	F—, Thomas	Revolver	"	6/13/22	Burglary
6/30/22	R—, Jacob	Burglary	"	9-6-22	Robbery
3/1/22	S—, Lillie	Grand Larceny	"	9/25/22	Grand Larceny
8/13/22	F—, Abe	Grand Larceny	"	11/16/22	Grand Larceny
11/17/22	W—, Louis	Burglary	"	12/28/22	Arson
9/26/23	M—, Mick	Drugs	"	11/27/23	Homicide
11/15/23	M—, Samuel	Burglar Tools	"	12/11/23	Burglary
11/24/23	J—, James	Grand Larceny	"	1/7/24	Burglary
10/31/23	L—, Max	Grand Larceny	"	4/10/24	Grand Larceny
11/28/23	K—, Matthew	Grand Larceny	"		
1/4/24	K—, Matthew	Robbery	"	5/2/24	Robbery
5/16/24	R—, Isadore	Grand Larceny	"	5/22/23	Grand Larceny
2/3/24	K—, Abe	Burglary	"	5/27/24	Burglary
6/4/23	G—, Hyman	Grand Larceny	"	5/27/24	Grand Larceny
5/24/24	G—, Sydney	Burglary	"	6/1/24	Robbery
10/12/23	B—, John	Grand Larceny	"	7/2/24	Robbery
2/4/24	K—, Herman	Grand Larceny	"	7/2/24	Robbery
5/19/24	K—, Max	Grand Larceny	"	8/20/24	Grand Larceny
8/8/24	B—, Anthony	Rape	"	9/8/24	Rape
6/17/24	S—, John	Grand Larceny	"	10/10/24	Burglary
5/5/24	D—, Robert	Rape	"	10/18/24	Homicide
11/23/24	F—, Hyman	Grand Larceny	"	12/23/24	Grand Larceny
4/3/24	D—, Edward	Robbery	"	2/17/25	Grand Larceny
1/12/24	R—, Joseph	Burglary	"	3/6/25	Burglary
2/23/25	D—, Rosario	Robbery	"	3/24/25	Robbery
10/28/24	M—, Louis	Robbery	"	4/26/25	Robbery
1/19/25	W—, George	Receiver	"	5/4/25	Burglary

The next strategy of the criminal's side is the manufacture of delay. Delay is nine tenths of the criminal defence. Mark that down. Delay is often ten tenths of a loophole through which criminal after criminal slides out unpunished.

The element of delay is so well recognized, the presence of swift law processes such a deterrent of crime, that I am sure a statistical survey would show that crime and delay in one jurisdiction walk hand in hand, while law abidingness and swift justice may be found together.

There are present in the United States a considerable number of persons who give out the assertion that punishment is not a deterrent of crime. They attempt to show that punishment is mere vindictiveness and, therefore, unscientific. They write me that the terrible punishment of the Middle Ages failed to prevent crime, and they reason therefrom in some strange manner that the more crime is punished the more crime we shall have. The converse of this is that the less crime is punished, the less crime we shall have. And the logical conclusion of their stand is that if we dismiss our police, close our courts, empty our jails and unlock our front doors, there will be no crime at all. I will examine this simple remedy in a later chapter.

Just now I can take the available figures, and the testimony of the crooks, gunmen, and other criminals themselves, to prove at least that if any punishment is retained, the mere swiftness of it is itself a deterrent of crime, and on the other hand, that mere delay in the processes of punishment is a crime breeder of astonishing fecundity.

"We keep out of Milwaukee," said a gunman to me in Chicago. "We may go up there when things

get hot in another city, but we don't work there. Milwaukee courts work too fast for us."

The comparative statistics need not be given in full, and indeed cannot be given, because they do not exist, but there is one measure: The killings in Chicago in 1923 were 13.6 for every 100,000 persons, and in Milwaukee lower than any large city in the country. I was told by prosecutors, judges, criminals, and police of other near-by cities that the swiftness of justice in Milwaukee was the reason the city report of Milwaukee is able to state:

Crime waves have been unknown in Milwaukee and systematic burglaries, confidence games, and hold-ups have been comparatively unknown.

A number of wise criminals have told me that Massachusetts was a bad place to work in, not because of the lack of opportunities, but because the courts are too good. I have been told by old offenders that it is not the escaping of arrest where the fight to keep out of prison is made; the real fight to keep out of prison is made by stalling in the courts.

As a measure of the advantage of stalling, one can ponder the statement made to me by one of the chief prosecuting attorneys in Chicago. He said that when he took office there was a group of some 200-odd cases of felony which had been strung along for years. The attempt to take these cases out for trial was disastrous. Witnesses had dis-

appeared; juries felt that time had healed the wounds of victims and the community. I believe there were two or three cases in the lot in which punishment could be obtained. All these cases had arrived at the point toward which the criminal lawyer endeavours to draw his cases. When cases go undealt with long enough, they become what is known by the phrase "cold meat." The complainant has forgotten, the newspapers have forgotten, the man who saw the hold-up take place is now far out in Colorado. Nobody cares much, there is not much hope of success in going to trial. The criminal goes free.

One of the foremost police officials in the United States said to me:

"Oh, yes. We catch 'em. But that's only a beginning. Then comes the bail, then the grand jury, and if some paper is wrong or some slip happens the true bill goes into the wastebasket. The shyster lawyer gets the judge to send some paper back because of some crossing of an *i* or dotting of a *t*. Yes, I said it as I intended.

"Then there's the pleading: and there's some excuse or other, and my officers as witnesses have lost another day of police duty. Then come the demurrers. And by that time my officers begin to wonder what the law is for anyhow. The case is on for trial and the witnesses are there, and the prosecutor from the district attorney has prepared all the papers and waits around for the case to be

called, and then it turns out that the prisoner is sick or his lawyer trying another case somewhere, and there is another week of waiting. Then the lawyer for the accused tries to make a deal with the district attorney to have his man plead guilty to some little thing in exchange for the real charge. They talk about that and fail to make a convenient trade. So the case goes to trial. There's a verdict of guilty and we think we've got our man at last. Oh, no—the case goes upstate to the higher court. There's seventy or ninety days allowed to prepare. The district attorney can't stop the appeal; it's a one-sided affair. Then when the legal time limit and extensions asked for are up, it is summertime again. The judges are all away in Europe or the Maine woods. After six months a plea is made that the stenographer's record is not yet corrected, and there is another postponement. The case has been sent back. More affidavits. Reversal on a technical ground. Retrial. Witnesses gone. Public has forgotten. That, roughly, is the story."

Unfortunately it is the story.

But it is a story with which the average citizen is wholly unfamiliar.

Such a story dulls the enthusiasm of the police. "Why arrest 'em if the courts and the prisons let 'em go?"

It makes the victim of a crime still more of a victim, for it keeps him serving as a witness, waiting around, losing his days, like the other witnesses.

One of these victims said to me: "If I had known the slowness of law and the ducks and dodges of the defence, I would have let the miserable crook go through my safe and I would have handed him a cigar and said, 'For mercy's sake, keep this confidential.' "

It is no wonder, with such a farcical performance in prospect, that the prosecuting attorneys of our courts have learned that this long weary road through our over-crowded courts, often leading to nowhere, is not worth while. As a result of this, a common practice has grown up which may astonish the honest citizen but is well known to the criminal.

This practice is described when the old criminal says to the young recruit in crime: "Get your lawyer to trade the prosecutor's office down to the minimum, and then, if necessary, plead guilty to that."

Of this practice, Chancellor Herbert S. Hadley, whose experience in prosecution was distinguished, says:

The prosecutor, knowing that from 30 to 40 per cent. of convictions appealed are reversed, is disposed to save himself a lot of hard work by accepting a plea of guilty to some minor offence. This demoralizing influence in the administration of criminal justice in this country has not been given the weight and importance that it really has in its effect upon the conduct of criminal trials, in addition to its effect upon the actual cases in which the judgments are reversed and remanded.

During the strategies and delays which the wily criminal lawyer can introduce into our system of criminal law and its administration there is not only

at work the scattering of witnesses, the evaporation of public interest, the weariness of complainant, police and prosecutors, but, if the lawyer be unscrupulous, a variety of dodges to kill the case. The criminal, his family and his ring are set to work to bring pressure on local political bosses or on possible jurors. The victim of the crime is bought off, wearied out, or intimidated.

In a recent burglary case a friend of the victim, who was a woman of moderate means, came to me in great excitement and told me that she had been advised by a man, who said he was a detective, not to appear against the prisoner or to have a lapse of memory in testifying, because the prisoner was a dangerous man who would, perhaps, when released, kill her husband or one of her children.

This is the kind of practice of criminal law and the kind of administration of criminal justice which allows it, responsible in large part for the fact that as a nation we are now almost facing a civil war with criminals and lawbreakers. I have been accused of presenting a sensational report; in Cleveland, where the Cleveland Foundation in 1921 made a painstaking survey and provided recommendations for remedies, the representative and conservative Cleveland Association for Criminal Justice opens its report for June, 1925, as follows:

Crime continues to increase in Cleveland at an alarming rate. For the semi-annual period ending June 30, 1925, major crime has increased over the corresponding period of the year

1924: Robbery, 15 per cent.; housebreaking and larceny, 59 per cent.; automobile stealing, 61 per cent.; burglary and larceny, 75 per cent.; murder, 95 per cent.; assault to kill, 100 per cent.; manslaughter, 139 per cent.

The attention of the public should be aroused definitely to the menace which threatens the city as disclosed by this increase in crime. It is only a short step from this situation to that prevailing in Chicago, where crime seems to be thoroughly organized and the law-enforcement officials during the past few weeks have fought an almost losing fight against the criminal element. Though Cleveland has not yet reached this situation, the startling increase in crime should be taken as a warning that unless criminal law is rigidly enforced, crime will secure eventually a like inexorable hold upon Cleveland.

Heretofore, the association has called the attention of the public to deficiency in the enforcement of criminal law and to responsibility of law-enforcement officials and the courts in the prevention of crime. However, regardless of the efforts of law-enforcement officials, regardless of the character of public officials, regardless of the zealous functioning of the courts, crime will increase unless the public takes an interest in the situation and demands its control.

The demand for control on the part of citizens ought to put at the top of its list a demand for stopping up the holes which technicality, outworn nonsense of procedure, so-called safeguards, and the factor of dilatory strategy have opened wide to the wrongdoer. The demand will help the weak-kneed judges of minor courts to stiffen their attitude; it will draw the attention of judges of higher courts of appeal away from technicality hunting.

As one distinguished jurist has said:

If some five hundred appellate judges in the various states would act together or agree together to put an end to tech-

nicality reversals and would restore consideration of the substance of justice, the whole machinery of the criminal law would take on a new life.

The day in which a few judges who do not yet realize the truth can tell us that the police are wholly to blame for our crime tide is distinctly over. The day in which the public will realize that there is much truth in the police saying, "We catch 'em and the courts and prisons let 'em go," is at hand.

But it is not only in the tricks of bail, procedure, and delay strategy that the criminal lawyer has a vast field of advantage. In addition to these he has on his side at the trial the support of those floppy-minded persons who, under the guise of scientific knowledge or of mere sentimentality, idealize the criminal. The wily criminal lawyer works this as hard as he can. He is able at times to make even the complainant or the victim feel that it is not the crime which is to be censured, but the complaint against the crime. No one has more respect than I for serious psychopathic investigation, but all kinds of drivelling nonsense are being used these days in the courtrooms of the nation to fill ignorant jurors with the idea of a new interpretation of human motives which, if carried to its usual conclusion, would render any one, anywhere, at any time guiltless of anything done to anybody. Too much of the new psychiatry is based upon mere phrases. Naughtiness is now entitled the "behaviouristic evidence of neuroticism." Someone invents the phrase "emo-

tional vacuum" to supplant the older one, "the devil finds something for idle hands to do." And the expert witness is called to testify in effect, "This man did wrong because he is not right; I know he is not right because if he had been he would not have done wrong." This expert witness is used by the practical criminal lawyer, who at times must have his tongue in his cheek as he draws forth the expert's testimony. The serious side of it is that almost every few days some murderer or conspicuous wrongdoer walks out of a court room with a flower in his buttonhole because some jurymen have been goose-stuffed with something called "modern science."

The Journal of Criminal Law and Criminology, in an editorial recommending that only the court itself should summon expert witnesses, gives an example of the way the expert alienists were utilized and used in the Loeb-Leopold trial:

In the course of a colloquy between counsel over the testimony of a psychiatrist called for the defense, this passage occurred:

Mr. D.: Let me ask you, doctor, what was Dick's attitude toward that compact?

Mr. C.: By "Dick," do you mean the defendant, Richard Loeb?

Mr. D.: If necessary, I am willing to stipulate that "Dickie" or "Dick" means Richard Loeb, and that "Babe" means Nathan Leopold, Jr.

This passage was evoked by the frequent instances of the expert witnesses' use of the endearing, youthful, innocent epithets "Dickie" and "Babe," both in direct and cross-examination; thus:

Q.: Is Loeb the leader in this crime?

A.: I should say that Babe has the more constructive component, and so on. Dickie, on the other hand, is rather essentially destructive, and so on.

This voluntary adoption of the endearing, attenuating epithets "Dickie" and "Babe" to designate the defendants reflects seriously on the medical profession. The whole evil of expert partisanship is exemplified in this action of these eminent gentlemen.

Most of the criticism directed against distorted and manufactured expert testimony has hitherto been based on the supposed bias due to the fees—the money taint. But in this case the fee was exactly the same on both sides. And in this case, also, the personality of the gentlemen refutes the possibility of such an influence. And yet the sad spectacle is presented of these eminent scientists committing themselves to the cause of one side rather than the other by adopting epithets calculated subtly to emphasize the childlike ingenuousness and infantile naïveté of the cruel, unscrupulous wretches in the dock. It was the cue of the defense to impress this character on the judge, and the experts' well-chosen language lent itself shrewdly to that partisan end.

The criminal lawyer is aided also by the sob writers of the press. It is this sickening rose water which aids the criminal lawyer, especially when its effect can be felt in the jury box.

And finally, when the loopholes of bail, magistrate, grand jury, trading with the state for a plea to a lesser offence, delay, appeal, and sentimentality, and soft science fail, there is always hope of probation and suspended sentence.

Any one who has any knowledge of courts knows that probation and suspended sentences are excellent institutions for rescuing first offenders from long

journeys on crime's road. No one wants a chance criminal to be hardened into an incorrigible if understanding, care, and a new opportunity will make a useful member of society. But the abuse of probation and the suspended sentence are so common, the probation machinery is often so feeble and the results so frequently disastrous, that good judges may think twice before allowing the suspended sentence to be the loophole by which the criminal is turned back on to the street to find his lawyers' fees in other men's pockets. I have been furnished by a police department the records of nearly 300 cases of arrests within the last year of men who had previously been found guilty of felonies and given suspended sentences.

The loopholes opened to the criminal are many indeed. The average man knows little, and the criminal lawyer knows much, of the way that the criminal slips through, and so recruits new criminals by his success.

The Cleveland Foundation survey report quotes an expert criminal.

The only way to stop us is to find out who and what we are and what we are good for. Then you've got to make punishment severe enough or opportunity good enough for us.

CHAPTER IX

PUNISHMENT AND PACIFISTS

JUST as it is absurd to believe that one cause rather than several is responsible for the maintenance in America of a criminal's paradise, so also is it absurd to believe that there is any one cure.

Before I set forth what I conceive the needed remedies are, I have endeavoured to show, in the space allotted, what investigation discloses as to various causes for our performance of violence and lawbreaking. I have endeavoured to show where the loopholes for the criminal were to be found. I have treated the subject of the police systems, the evil of too much goose-stepping lawmaking, the antique criminal law codes and procedure, the farcical practices of criminal trials, bail systems, jury performances, suspended sentences and the lethargy or blithering sentimentality of some public opinion.

Now we come to the facts and the problem of punishment—the subject of jails, prisons, paroles, pardons, punishment, and reformation. And of all our bad record in law enforcement and in dealing with the criminal humanely but effectively, our at-

tempts to punish and reform present the most grotesque failure.

In that grotesque failure there is no feature quite so absurd as the fact, standing up like a sore thumb, that we really do not know what we are trying to do. If any one takes the pains to look into the subject—and the average citizen usually fails to do so—the first and foremost conclusion must be that a silly brand of hate and silly drivelling love are each struggling with the other to gain control of the convict, while good sense is far away.

The first step toward stirring good sense is to admit at the beginning that our system of punishment will never straighten out until the people get behind the appropriations necessary to build good penal systems. I have been in too many penitentiaries and reformatories where the rats and cockroaches trace their lineage back to ante-Civil War days. I have received too many reports of prison systems unable to take care of new inmates, and have seen the slow law made slower by the fact that if prisoners are convicted there will be no place to put them. I have seen prison guards of a type exhibiting brutality and engaging in drug smuggling because a niggardly state would not pay for good men. I have noted instances where, because the people made no insistence on providing for a good penal system, the whole business fell into the hands of crooked politicians and the lobby for a prison-labour contract. In this regard we are no doubt no

worse than most other nations, but it is absurd for a civilized people to provide so miserly for their penal plant and for their prison officers that punishment is defeated by corruption on the one hand and humane consideration and scientific methods are barred on the other hand. This becomes particularly ridiculous at a time when, because of the devotion of progressive and scientific men, well-balanced institutional management is in the process of a development which will save the people dollars if the people are willing to spend more cents, and may tend to reduce the criminal population as well.

The ridiculous side of inadequate prison facilities and appropriations is seen in the brutal, criminal-breeding county and city jails with their idle and despairing inmates; it is seen in short-handed underpaid parole boards pretending to pass upon the fitness of convicts to return to freedom and therefore running a kind of mill to grind out of penitentiaries and reformatories prisoners who are about as safe as mad dogs; it is seen in out-dated buildings; it is seen in the inhumane accommodations and prison régimes which have been the foundation upon which the equally bad, if not worse, sympathy, coddling, and pseudo-scientific bunkum have been built. We may as well begin at the bottom and say that probably not much can be done in real prison reform, so that we can solve the difficulty of making correction and punishment walk hand in hand, until we are ready to spend something on it.

After that? After that, the job of the citizen who wants to help stop the crime tide in America is to make the sentimentalists—yes, and the new schools of scientists, too—come back and put their noses on the grindstone. Let us separate the sincere and sound scientific experiments in prison theories and practices, in psychiatry and individual reformation and salvation from those emotional phrase-making scientists and soft reformers who go off half-cocked. If given leash, these latter would shoot our whole penal system full of loopholes to encourage new criminal recruits.

In punishing criminals, what are we trying to do? There was a time when the theory was that we were trying to take legal revenge. That has gone beyond recall. The state and its citizens do not spend much time these days hating the men and women behind the bars and gloating over the fact that they are suffering. Even the sterner prison wardens I have known have not been engaged much in wreaking revenge or hate, but have been trying to run a prison with good order and discipline according to their lights. I have found, however, that one type of reformers, who are called the "sob sisters" by police and criminals alike, are always trying to make us believe that we have a simple choice. This choice, as they try to show it to us, is to adopt hate, revenge, merciless treatment, and brutality, or else cast aside every consideration except that of what is known as "individual treat-

ment." The sob sisters, male or female, would use the fact of an individual's criminality to bestow upon him greater concern and favour than are given to the policeman who arrested him, to the honest man who was his victim, or to the decent member of society who is struggling along the hard straight road. That is mere blithering. We are forced to no such choice. But if we had to take it—one thing or the other—all the evidence I have gathered would lead me to choose as the lesser evil the unbending severity of punishment. I would choose it for the simple reason that the coddling process would lead to doubling our criminal population in two years and multiplying it so fast that we could not control it at all. The maudlin-mercy method might be good for the criminal already a criminal; it would be a dastardly injustice to the boys and girls who may be tempted, by the idea that they would receive the same soft indulgence, to follow in his path. It would reduce discipline and order to a state of jelly-rot toward which we have already gone a long way.

The next theory of punishment we hear about is that imprisonment gives security to the state. The idea is that if John Doe is a danger to us he should be locked up. Of course, that is true, but surprising as it may seem to those who are unfamiliar with real conditions, it is not very important. The best estimates show that only less than two fifths of our total professional criminal population is in jail any-

how. This small two fifths will constantly be coming out and, certainly, a third of them will leap at the throat of peace, order, and law the moment they get a clear chance. Of that number of incorrigibles, it might be possible after a long experience to cure a considerable proportion by scientific treatment, but the cost will be great and the danger of breaking down the punishment feature of our penal system will have to be reckoned with.

The two reasons given on every hand for the punishment or incarceration of the criminal are these. First, to keep him in a place where he cannot commit more crimes. Second, to get him in a place where he may be reformed, remade, and treated so that he will be safe to release when he has taken the cure.

It is bad enough to stop at this superficial thinking about punishment; it is even more shocking to find, as I have found, that those who are having the most influence, while the back of the public is turned, are forgetting all considerations except one. That one is the welfare of the criminal.

No one can object to attempts, particularly scientific attempts, to remake bad men into good men, stupid men into bright men, lawbreaking men into law-abiding men. But we in America have allowed those who are interested in that noble task to blind us, or hoodwink us into the absurd idea that punishment can be forgotten altogether. We have been swamped by articles, treatises, editorials, poetry,

and even songs which ask us to dedicate our police, our courts, and our prisons to one cause.

Is that cause to maintain law and discipline or to protect the innocent? Is it to protect the fruit as yet untouched by rot? Not at all. That cause is to maintain the criminal, to protect the criminal, to give almost exclusive attention to the salvage of the rotten apples. In reviewing the crime situation in America, I found many amazing facts, but none so amazing as this one. All along the line, the whole theory and practice of punishment is being forgotten. More than that, it is being attacked. More than that, those who are undermining authority and discipline are not only those who because of their interest in analyzing and treating the criminal forget everything else, but certain groups of a philosophical or racial flabbiness who would instinctively be glad to see authority weakened, and the organization of orderly society disintegrated.

If any one doubts that we are drifting toward the idea that punishment and prisons are to be supported by the taxpayer for the benefit of the criminal, let him read the flood of treatises, articles, sentimentalized science, and lectures which are submerging our good sense. In the face of a situation which in its gravity, its violence, and disregard for law is almost a declaration of war by the crook and the degenerate upon the decent part of society, we are not only being told that the criminal is a sick man who deserves careful, expensive, specialist

treatment—to which I may agree—but that we should regard all our penal system as dedicated solely to that cause. This is arrant nonsense and fatal to any measure of success in curbing the increases in our criminal population.

The tide, however, is so strong that I have found on every hand even good and sensible men giving vent to the fallacy that salvaging the criminal is the whole object of the law. In effect, they say, "The law has been broken and by this good fortune we now have received a sick man, a man needing curing. Although we have not gone beyond the experimental stage, we will try to diagnose his case. Although our record of cures is slim, we will try to apply a cure. And if we cure him we have reached a summit of victory." And for this end, prisons are maintained!

Am I exaggerating? Let us take from good and conscientious men, prominent as leaders of thought about punishment, the typical expressions of the day. A president of the American Prison Association says:

The fundamental principle of modern prison science is the improvement of the offender; the entire penal system resting upon one single proposition—the protection of society. That principle alone justifies the conviction for crime and the imprisonment of offenders.

So centred is the attention of one of the ex-wardens of a famous American prison on the criminal that he writes:

It is the hope of correction which justifies imprisonment, because our laws are not really retaliatory or revengeful, but are redemptive.

A grand jury in an Eastern jurisdiction, in its report in 1924 says:

The remedy commonly called punishment, which consists of imprisonment for a variable length of time, instead of bringing about improvement in the individual, often is responsible for turning him loose more resentful against the Government.

One of the leading American delegates to the International Prison Congress in London in August, 1925, has distributed a pamphlet in which he says:

The prison of to-day should be a school.

The secretary of one of our prison-welfare associations goes further, saying:

The trouble at the base of the whole prison system is that it is administered as a punitive measure. It should be constructive and educational.

I have received a number of letters from officers of prison associations and various reformers of standing who believed that I stood against doing everything possible, sensible, scientific, and humane to restore the criminal to a law-abiding spirit, and, more important, to a law-abiding practice. I do not stand against these attempts. A little later I will tell why I believe other less worthy current attempts are mere experimental feelers, why others still are mere sentimental nonsense, and why many

attempts at reform, much to every one's loss, fall far short of success. Sensible persons will not stand against the introduction of science and efficiency into progressive and individualized treatment of the criminal. But to consider that this treatment is the whole end and aim of criminal law, criminal prosecution, and our prisons is to take a position which makes us the laughing-stock of the offenders themselves.

I have an editorial from one of the leading American newspapers. It discloses again the idea that has swamped the country—the idea that prison is for the benefit of the criminal. It is even headed, "Prison Will Not Help Her." It concerns the fate of a girl who, before she was sixteen, was practising, regularly, adultery. She was a cocktail-drinking, hardened little hypocrite. After her conviction her one thought was to get even with the wife of the man she had ensnared. Incidentally, she had shot to death another suitor who had called her paramour a name.

About this girl, the editorial says:

With only a verdict of manslaughter as a basis for his sentence, Judge M. has extensive powers of discretion in sending Miss X. to prison. That he will give her the longest term is not to be expected. Being a man, and a humane man, the judge will take into consideration her youth and her sex. . . . It is to be regretted that there are no prisons from which she is likely to emerge with her faults and weakness removed. . . . Other measures giving her a better chance for reformation can be imagined. Just at that point comes in society's responsibility for Miss X.

I showed this to a court officer. He was astounded. He said, "Why, she is a tough one! She should have had the limit. You know that. And here this writer talks as if it was the Government which should be indicted and made to apologize to her for her crime. But that's nothing! How does this girl count anyhow, compared to showing four hundred thousand others in this city what happens when they do what she did?"

This same editorial column, not many days later, said, "The prevalence of crime does not vary with the severity with which it is punished," which is another way of saying, "Let us abolish punishment altogether. It neither chastens the offender nor prevents others from imitating him." Combined with the first editorial, the programme is simple—abolish the prison and open the free boarding house for the degenerate, the crook, and the murderer.

This is the argument: Punishment does not abolish crime, therefore punishment is useless. It is exactly like saying rat traps have not extinguished rats, therefore let us do away with all traps.

In this new school of thought—the school that considers the criminal law is enacted for the salvation of the criminal—I have been able to find endless discussion of the effect of imprisonment upon prisoners, but a total absence of thought or discussion of the effect of the imprisonment of some two hundred thousand persons in the United States upon the millions outside the prisons.

I join those who say that it would be desirable to build a society so economically and socially and eugenically sound that no one would ever want to commit a crime. But while that is in process I cling to the idea that we may help those who have not yet committed crimes and who feel the desire to do so by causing them to reflect, "I want to do it, but look at the cost!" Even the mental defectives and the morons are capable of seeing the connection between wrongdoing as a cause and punishment as an effect.

I have found that punishment as a deterrent of crime is understood by the police, by judges, by wardens, by prisoners, and even by the boys who play ball on the sand-lots. The only class which fails to draw any balance between the joys of crime and the sorrows of punishment are those who have too intense an interest in proving that the criminal is sick or mad, or who put their passion for individual reformation of wrongdoers of yesterday above their regard for those who may be tempted to do wrong to-morrow, and above whatever regard they may have for the maintenance of authority and law.

When almost the whole body of those who attempt leadership in prison reform never speak or write a word about deterring the new recruit in crime, it is refreshing to find in the journal of the American Institute of Criminal Law and Criminology the discussion by Dean Wigmore, famous jurist of Northwestern University, of the Loeb-Leopold

case. It is the best statement of good sense about punishment I have been able to find. Every citizen who is interested in getting back some of our American law-abiding backbone should read it and never forget it.

The theories of the basis of penal law are all reducible to four—retribution, reformation, deterrence, prevention. But the last of the four—the preventive basis—does not concern the law and the courts; it concerns the general social measures, such as education and eugenics, which will eliminate or diminish the tendencies to crime; hence it is here immaterial. There remain the theories of retribution, reformation, and deterrence.

The retribution theory was once dominant, centuries ago. It had a theological origin, but has long been discarded. Probably the last writer to advocate it frankly was Thomas Carlyle. But nobody defends this theory any longer.

Why, then, does the opinion in the Loeb-Leopold case refer to a life sentence as "the severer form of retribution and expiation"? Those terms are discarded—and discarded by the very "progress of the criminal law" elsewhere invoked in the same opinion.

The reformation theory is the proper basis for shaping any and all penalties, so far as concerns the individual at the bar. It may lead to permanent segregation from society, at one end, or to immediate discharge on probation, at the other end. All modern criminal law has been modified in obedience to this theory. In the Loeb-Leopold case it would lead to no mitigation, for there was no evidence at all that these men would ever reform. The evidence was all to the contrary. Their philosophy of life was fixed; they had been developed by the highest education; their cynical, callous unscrupulousness revealed them as irreclaimable.

But this reformation theory affects solely the individual at bar. It takes no account of the mass of humans outside. The criminal law is quite as much concerned with social effects, that is, effects on the community at large. And that is where the deterrence theory comes in. The opinion in the Loeb-

Leopold case ignores entirely this basis of the criminal law. And that is its cardinal error.

The deterrence theory is the king-pin of the criminal law. The crimes contemplated but not committed bear the same ratio, or greater, to those actually committed that the submerged base of an iceberg bears to the portion visible above the surface; scientists say it is as 6 to 1. The fear of being overtaken by the law's penalties is, next to morality, what keeps most of us from being offenders in one way or another. For the professional or habitual criminals who have ceased to care for social opinion it is the only thing. A lax criminal law means greater yielding to the opportunities to crime. This is common knowledge.

So the main question here really was: Would the remission of the extreme penalty for murder in the Loeb-Leopold case lessen the restraints on the outside class of potential homiciders? The answer is yes, emphatically. And daily newspapers dispense us from labouring to offer any elaborate proof. On September 1st, after the counsel's argument for the defense had been published, two eighteen-year-old girls were arrested in Chicago for assisting two youths of sixteen and nineteen—Bill and Tony—to kill cruelly an old woman whose money they coveted. And the girls on their arrest said: "A cop told me they would hang Tony. But they can't. There's never been a minor hanged in Cook County [note that the judge later cited this point in his opinion]. Loeb and Leopold probably won't hang. They are our age. Why should we?" These particular reckless dastards, it seems, "wanted money for our good times, excitement, clothes, and fun," and they don't mind killing because they won't hang. On September 2nd a male and a female, nineteen years old, were arrested for highway robbery in Alexandria, Virginia; the robbery failed, by accident only, from being a murder; the female, when arrested, said, "I'm sorry I didn't get away with it; if I had more experience I would have."

The examples in which the criminal himself states that he thought he could get away with it I find are

endless. A citizen of St. Louis, a man of high standing in his profession, writes me:

The reason for the recall of the law abolishing capital punishment in my state was based on an incident occurring in our largest city. One of the participants in a bank robbery was confronted by a police officer. The robber was cornered. The police officer was shot down. The criminal freely admitted that the shooting of the officer was the result of legal analysis on his part. To be caught for bank robbery under the circumstances meant life imprisonment. To kill any one did not increase the penalty. Therefore he deliberately killed to get away.

I do not cite this to argue the subject of capital punishment; I cite it to give one among the daily instances which answer those deluded persons who write to me and say, "Punishment of terrible severity in the Middle Ages did not stop crime. Punishment deters no one from crime. The criminal never counts the cost. Indeed, whenever punishment has been most severe, there is more rather than less crime." These deluded persons are not only flying in the face of all human experience with discipline, they are not only spreading a doctrine that all our police and most of our judges and the criminals themselves would meet with derisive laughter, but such deluded persons fail in the logic or courage to carry their assertion to its conclusion. They ought to go on and say, "If the more severe the punishment, the more we have crime, then the less severe the punishment, the less crime we shall have. To abolish crime let us therefore abolish

punishment. And if the law which forbids carries no punishment and no power, it is not a law but a mere expression of sentiment. And if it is not a law it should not be on the statute books. Let us remove not only punishment but the laws as well." This is the philosophy, foolish or sinister, which would undermine the discipline and authority of our homes and our government.

In one newspaper I find an editorial headed as follows, "Imprisonment Also Is Torture." It continues:

There would be some difficulty in explaining why most modern men recoil from the thought of inflicting physical pain in cold blood on a fellow mortal while they still have no compunction for sending considerable numbers of erring ones to endure for years a life of confinement which would be torture to the great majority of us.

This is an argument against punishment. In the same newspaper is the account of a girl of seventeen who had been charged with a succession of seven apartment-house burglaries and who was quite resentful and outraged by the proposal to send her to the reformatory! She and the editorial writer are in agreement!

In a Middle Western city, I talked with a police chief who had once been a railroad detective. He told me of eight boys ranging in age from seven to twelve he had caught when he was employed by the railroad, stealing small loads of coal from the railroad yards. The judge was a tender-hearted face-

tious old person who said to the boys, "I am going to discharge you boys. Your families probably needed the coal and that is why you took it. But the railroad stole it anyhow from the people. I won't even put you on probation." The railroad detective whispered to the judge and said, "Please do not give out the impression that boys in that district can get away with coal stealing. Coal stealing is the beginning. If the boys there think they can break the law, it will be a regular breeding ground for criminals. I don't want these boys sent up, but there should be some punishment."

The judge laughed indulgently and replied, "Punishment won't cure these boys," and waved his hand. Twenty years later, in the course of a few years' service as police chief, the old detective tells me that he saw five of these eight boys and a dozen others from their neighbourhood sent to the penitentiary for felonies.

The present superintendent of prisons in one state spent some hours telling me that punishment seldom accomplished anything. Finally I discovered that he meant that mere punishment seldom accomplished anything in the way of reforming the person punished. He had completely forgotten, as so many of our prison authorities and citizens forget, that punishment is not inflicted upon one person for revenge and not primarily to reform that person, but to give notice to that person's neighbours, friends, public-school or business associates and to

the whole world that if good sense and enlightenment will not always be on the job to restrain the temptation of the prospective wrongdoer, the law and its enforcement and its punishment acts as the price tag on crime.

Another superintendent of state institutions of the new school also told me that punishment did not act as a deterrent. After an hour of conversation, I said to him, "Let's see. You have been having quite an exciting time in your state from auto bandits."

"Yes, we did," he replied. "The situation was frightful! A few young desperadoes would take a car and go through place after place, holding up people or robbing stores. But it was stopped!" He spoke with vehemence and pride.

"What stopped it?" I asked.

"Well, I'll tell you about that," he said eagerly. "One of our judges gave three sentences of forty-five years. That stopped the whole business!"

No one but a fool will believe that the institutions of law and punishment will make humanity perfect or abolish criminal tendencies. But law and punishment make no pretence or practice of taking over full responsibility for the field of eugenics or social, economic, or spiritual evolution. All that law and punishment claim is that, for the maintenance of safety, order, and peace and the protection of the innocent from the violence of degenerates or from deliberate wrongdoers, the cost of wrongdoing shall

be marked on temptations—and collected! If there are those who propose to abolish the collection of the amount on the price tag and to eliminate discipline of all kinds from society and the state, they are either maudlin or anarchists.

I have tried to go to the bottom of this question of why we punish, because, unless we know what we are doing, there is no basis on which to build policies for our prisons, our paroles, our pardons, for our scientific progress, our individualization of treatment, our severities, or our dispensation of mercy and consideration.

One warden said to me, "They say that our prisons should be made educational. Of course they should. But the best education a prison can give is the education of the boys and girls outside the walls, who in these loose days are tempted to commit crime."

This is a point of view which is so often completely forgotten by the parole board, the governor who grants pardons for a few tears or a few votes, and those sentimentalists who want indeterminate sentences when maximum of the sentence is fixed rather than the minimum.

The tragedy of our whole prison situation—and some of the criminals know it better than I do—is that the unwise reformers spoil the work of wise reformers. It is not those who propose brutality and inhumanity and revenge who undermine the case of those who propose science and humane methods

and are willing to stand by results of attempts to reform. Not at all. Those who break down constructive policies and labours are those who go blithely around that punishment is not a deterrent.

It is not the psychiatrist who says, "Let us examine them to find out reasons why they should be restrained," who throws discredit on psychoanalysis of prisoners. It is only the psychiatrist and the alienist who say, "They are all mad. They are all sick. They would not have done wrong if they had been right. Let them out!"

It is not the parole-board member who tells the truth and says, "Our experiments in release are not a great success," who does the harm to the cause of paroling safe and worthy prisoners. It is the parole-board member who pretends that parole boards in practice are able to know much of the wisdom of releasing this man and the next.

The truth of the matter is that most of the innovations, outside that of proper decent care for the physical and mental well-being of prisoners, have been experiments. And it is not clear that most of them have been successful experiments. The abolition of capital punishment—of execution, which probably will be conducted some day by the use of some painless anæsthetic gas—has yet to prove its case. Temporarily the evidence tends to show that execution acts as a deterrent of the crimes it punishes. On the other hand the best argument for its abolition is that juries are reluctant to convict

when conviction means a sentence of death. Its presence may bring a prospective murderer to count the chance of paying an extreme penalty, but its presence may lessen the chance of his paying any penalty at all.

As to the mental examinations of prisoners I have been accused of opposing the research of the psychiatrists. I do not. On the contrary, whatever the development of an imperfect science may accomplish in looking into the minds of men and leading to a cure of folly and misbehaviour is a good thing. But the silly aspect of the proposal as so often stated, is that the discovery of abnormality is a reason for turning loose the abnormal, dangerous man. Discovery of abnormality in a man is not a reason for shortening his sentence or letting him go; it is an additional reason for committing him to safer keeping, and a new argument against his release from it.

If psychopathic treatment can be developed so that it provides cures of criminality, who will say evil of it? But so far as it has gone now it appears to be almost all diagnosis, and not at all well provided with a record of cures. Its best and noblest emphasis is the insistence upon treating criminals as individuals, and upon classifying various groups in our prison population so that we may salvage all we can of the more promising material, rather than allow its further corruption.

But there has been a good deal of nonsense about

some psychopathic investigation. One piece of that nonsense is the invention of phraseology which calls old, recognized human traits by new names. As I have pointed out before, the smart psychiatrist who speaks of the unfortunate young female prisoner as having suffered from an "emotional vacuum" is only saying what the old-fashioned farmer's wife said when she announced, "Satan finds work for idle hands to do." The terms "borderland case," "psychopathic personality," "neurotic type," used to be described by such simple, homely phrases as "Jack has brooding spells," or "Minnie got too interested in herself," or "Henry was a fidgety boy." I recently had occasion to go over the data cards of the psychiatrist of a state penitentiary. They were impressive; they were filled with newly coined phrases with which I have made myself familiar, but when I wanted to know about two or three particular prisoners—I asked the warden.

There has been a good deal of nonsense, too, in findings that indicate that our criminal population is of startlingly low mental level, or composed almost entirely of abnormal beings. When allowance is made for the fact that it is the less fit, the stupidest, and the most impoverished of criminals who are in prison, because the more clever are often able to escape through the loopholes of the law, and that, in addition, the criminal is now thoroughly educated to the idea that he must deliberately try to prove,

by acting the part, that he is queer, it is not surprising that the psychiatrist is fed a maximum of low mentality and high abnormality.

But the real joker is found in the fact that low mentality and abnormality, defective vision, teeth, and other misfortunes are about as common outside the prison wall as inside. Before the war and, therefore, before the psychiatric examination of millions of drafted men, there was a great hullabaloo about the low mental level of the wrongdoer. The draft records pricked that discovery, because it was found that about the same shocking underdevelopment of mentality was the curse among us all. Carl Murchison, professor of Psychology in Clark University, who conducted extensive investigations comparing the intelligence of native white male prisoners with the draft men in the war, found that the criminal intelligence was higher and not lower than the draft intelligence. In his book, the most thorough review of the subject, he says pungently, "The author has no desire to play the part of the devil's advocate. He does not hold the conviction that criminals have more able minds than do more conservative members of society. But he is convinced that great harm has been done and is being done by the propaganda which creates the impression that the criminal is feeble-minded and an individual to be fawned over and petted. It would be of greater service if the thinking element

in society could have their minds directed to the idiotic expressions on statute books and the imbecile attempts to execute such idiotic expressions."

The wisest psychologists and neurologists probably realize that the same error is now being made about abnormality as was made about mental levels. If one is to accept as abnormal the cases so diagnosed by some of the prison psychiatrists, then mental abnormality is also about as common outside of prisons as freckles are. There is a kind of enthusiasm on the part of any diagnosis specialist to find something. There is a reluctance to have a lot of phrases, terms, and learning at hand and not be able to hand them on to every patient. The normal person is a kind of disappointment of eager expectations, reluctantly accepted. One is left wondering what would have happened if the psychiatrists had examined Napoleon, Garibaldi, or Lincoln, the whistling butcher's boy, or you and me.

There have been published statements that 89 per cent. of crime is due to emotional or brain defects. F. Emory Lyon, Superintendent of the Central Howard Association, says that he fixes the proportion at 15. But, whether 89 per cent. or 15 per cent., it is quite possibly the fact that the man who finds that the commission of crime is due to any fixed percentage of brain and emotional defects would have to find almost the same percentage of defects among the noncriminals as a reason why they do not commit crime.

One of the numerous physicians who have written me to protest against the fanaticism of psychoanalysis of criminals says:

Having done much medical testifying myself, I am familiar with the methods and terms by which the public is made to feel that the criminal must necessarily be ill, on the hypothesis that if he were well he would not have committed his crime.

The excuses and exaggeration of many criminal psychologists, and not any opposition to reasonable investigation and experiment, are to blame for the misfortunes which have fallen upon the sincere worker in the field of mental hygiene. A frank declaration on the part of the searchers for truth that until now most of the results have been in diagnosis rather than cure is needed. But even more it would help for them to declare that the logical result of discoveries that criminals are defectives or are abnormal is not to let them loose earlier, but to keep them longer.

If psychiatry takes that position and comes down off its phrase-made plane, the support of the public will be given to its attempts to feel around for a handle to readjust the individual wrongdoer. If indeterminate sentences mean the commitment of prisoners for a minimum term with an indeterminate term to follow, which may be ended by adequate evidence of the prisoner's fitness to be at large, citizens can approve that, too. If governors must continue to grant pardons at all, the people may look with calmness upon the clemency of

justice, but if they have sense they will turn against some of the scandalous, wholesale distribution of clemency for political purposes which is even now going merrily on in some parts of the United States.

No one wants the prisoner mistreated, abused, or abandoned. Everyone wants the prisoner salvaged, if he can be salvaged. But the one thing standing up above all else that I have found in investigating our crime record, is the need to remember that the prisoner, whatever consideration we may give him, is not the person we are educating by swift, sure, and severe punishment. Consideration for that individual—the guilty man—is secondary. The persons we are trying to reach, trying to safeguard, trying to educate when we punish the prisoner, are the boys and girls in countless multitudes who may and do, even though they be morons or defectives, read the plainly marked fixed-price tags on wrongdoing.

When the reader of this meets the foolish or sinister preachers of a contrary doctrine, he meets a man or woman who, facing the increasing success of the criminal in his war on the nation, decides to be a defeatist and a pacifist.

CHAPTER X

TURNING BACK THE CRIME TIDE

MANY persons knowing that I was to make a survey of crime have written, "Tell the remedy."

Others have said in substance: "You have presented the fact of America's criminal's paradise, but it is to be hoped that you will dig deeper and show the fundamental causes of crime and how we can prevent criminality by birth control and eugenics, by spiritual teaching and love, by removing poverty or overcrowding in cities, by taking steps to discover in each individual child any abnormal or criminal tendency and attempting to root out the seeds of crime rather than the blooming plants."

Unfortunately, the answer to the first suggestion is that there is no one panacea to cure our scandalous crime record and lawlessness.

Unfortunately, the answer to the second suggestion is that though no one can deny that creating perfection in mankind and an ideal social and economic environment for mankind to live in is so desirable that we are all at work on that almost interminable job, but when the house is on fire only the fool goes away mumbling, "If we use the hose

we shall forget the great and learned and more important subject of fire prevention. In case of fire, it is not water we need; it is deep study into the nature of fire. Let us allow all our fire-fighting machinery to become antiquated and let it stay in the barn. Let us take counsel with one another as to what causes fire and what sympathy we can find with these flames. Let us drink deep at the springs of historical and learned research, let us realize that fire is not wicked but merely stupid or abnormal. Let us not alarm the neighbours. Pray keep this fire dark. And above all let us not engage in hasty action."

The truth is that the doctor who, coming to the bedside of our inefficiency of authority and law enforcement, expects to cure by prescribing one pill is doomed to failure. But perhaps equally useless is the physician who turns sadly away and says, "This is my suggestion. Such things would not happen if we could only eliminate sin, folly, vice, imperfection, and unhappiness from the world of man."

If any one doubts the end to which this survey of crime leads, that doubt can be cleared in a single sentence as follows:

The only cure ready to hand for lawbreaking and the tumbling down of authority and the degeneration of a sense of personal responsibility is law enforcement.

The idea that law enforcement means brutality, or that law enforcement precludes or prejudices the

attempts of intelligent or learned or good persons to bring about a world in which law enforcement and even law may finally become superfluous, is a ridiculous idea.

As one judge writes me:

There is something grotesque about those who try to muddy the water of clear thinking by saying that punishment has not eradicated all crime and that to eradicate crime we should go to fundamentals and make the world over. What is their purpose? To abandon the idea of punishment as a means to deter those who are tempted to become criminals? If such is the case you are quite right in saying that they should also propose to abandon law, since law which has no enforcement is utterly idle. But if we assume that we are to keep law and consequently law enforcement, is it the idea of these gentlemen who see horizons but not the ground under their feet that it is their duty to weaken and emasculate punishment? Is it necessary to abandon punishment so that social, economic, or eugenic, or medical, or psychopathological investigation may go on? Certainly not. And you will find those who try to make out that it is necessary are merely using science and research as a kind of wool to pull over the eyes of citizens whom they hope to lead away from law, order, authority, and law enforcement.

The next group which attacks or undermines law enforcement has in it those who try to centre the whole effort of law and law enforcement and the penal system upon the cure of the criminal. No sensible person can stand against any attempt to treat individually and to cure the criminal, but it is a light-hearted idea that laws were written and law enforcement and penal systems are being maintained solely as a clinic and hospital system. No

one objects to clinical and hospital methods, provided they do not lead us into the idea that laws, police courts, and prisons are dedicated solely to the criminal's welfare. The experimenting scientist should have every right and every encouragement to help us in restoring the law-abiding personality, if possible, to every criminal, but the influence of the scientist is sinister if he, instead of saying that any really demonstrable discovery of abnormality is a reason for quicker and surer machinery of justice, says that it is a reason for more dilatory and more vacillating justice. The scientist should be charged with the responsibility of emphasizing that his findings are reasons for keeping prisoners, rather than reasons for letting them go, and finally are new reasons for the restraints of law enforcement, rather than reasons for their abandonment.

Above all, this new interest in the individual criminal will be a bane and not a benefit if it makes us forget that the reason for the summary punishment of a wrongdoer is not primarily concerned with that particular wrongdoer. Mere punishment so far as he is concerned has been shown to be less than 50 per cent. effective to keep him from wrongdoing in the future. But that fact is of small importance. The real reason for punishing one person is to serve notice on the millions of others what it will cost each of them to engage in wrongdoing. Punishment is not dedicated to the guilty one in any case; it is dedicated to keep the innocent

from becoming criminals. The deserter in war is not shot because he is dangerous, or because his particular desertion has done any great direct harm, for it has not; he is shot because, if desertion became common, it would be a great harm, and because the execution of one deserter is believed to deter others who might desert if they could do so without cost to themselves. He is shot for the morale of war just as criminals, unimportant in themselves, are punished for the morale of well-ordered peace. If one is an anarchist—believing in no law—it is possible to attack the theory of punishment, but there is something soft or chuckle-headed about any one who asserts that punishment does not deter wrongdoing, but who stops there and refuses to go on and say, "I do not believe in punishment, hence I do not believe in authority. In fact, if you must know the truth, I am by temperament or for reasons I will not disclose, against the Government."

In brief, it is not only the imperfections in our home training, in our intake of immigrants, some of whom are low-grade material, in our spiritual and moral tone, in our lawmaking, in our police systems, in our courts or in our prisons which public opinion must help to wipe out. There is another trouble. It is that we have in hiding behind the masks of learning a good many theorists playing endless jackstraws, behind the masks of science a good many faddists engaged in feather-dusting criminality.

Not only do their results discredit vital research and real science as applied to crime, but they furnish to the sentimentalists an excuse to weaken our treatment of the criminal, and to the subversive and revolutionary conspirators a chance to disguise their attack upon law enforcement and authority by the false labels of Enlightenment.

If we are not ready, in face of so much lawlessness, to listen to intellectual lullabies; if we are not to abandon the idea that we can better our record in fighting crime merely because the remedies are many instead of one; if we are unwilling to delay doing something now because it is urged that crime can only be completely eradicated by eugenic, social, and economic Utopias, then reasonable and practical men have various remedies at hand.

The very first of these is public interest. The reason this investigation was undertaken was to stir public interest. I have listened for six months to those who have told me that the remedies should be in the hands of scientific research workers and specialists of the bar, but since the remedies have been almost exclusively in their hands for the entire period during which crime has grown steadily worse and our indulgence of it and of antiquated systems of law enforcement continually more senile and flabby, I now have a great deal of hope in public interest and citizen activity. It will always be in the mouths of the complacent to call all public interest hysterical and anything which arouses public interest

an agitation. But my investigation has convinced me that nothing will clean up criminality in America unless it be public interest and citizen activity. The overwhelming majority of police, judges, prosecutors, and even criminals believe it too.

A criminal of record and distinction has said to me concerning a particular city, "Make me the chief of police of — and in forty-eight hours I would clean this town of every crook in it. There would be only one condition I'd ask. I would ask that the citizens should really want to have the town cleaned up."

In the absence of the will of the public to have the clean-up made there would be no effective clean-up. One proof of this is that we have had no effective battle against our rising crime tide. In certain localities there have been some effective skirmishes. The case of Cleveland is one case where a careful survey brought about improvement. But it is not to be forgotten that it was public opinion which brought about the Cleveland survey, and public opinion upon which depended the carrying out of the survey's recommendations. The brief of the Cleveland Survey published by the Cleveland Foundation opens with the sentence:

The Cleveland Survey of criminal justice marked the culmination of a long period of growing public distrust in the quality of law enforcement in Cleveland.

The same publication ends the account of the survey with these words:

The survey was intended to do no more than analyze the problem in its entirety, to point out the essential improvements, and to show the way by which such changes can be brought about. More important still, it had an educational value. It was intended to capture public interest, to get a large number of people to think simultaneously about this specific problem and to use this public interest to insure a permanent result. It was intended from the beginning not merely to rouse interest, but to use an aroused interest to promote permanent and intelligently directed facilities for informing and releasing public opinion.

If it is necessary to decide which comes first—public interest or scientific surveys—a good guess is that public interest and determination are the parents and not the offspring of surveys. Indeed, one of the useful products of aroused public opinion is the spotlight the right kind of thorough investigation throws on the detailed facts. Everyone knows that we have crime and lawlessness in a measure unequalled in other civilized times and places; but the loopholes by which our criminals escape punishment, and the useless mollycoddling of wrongdoers on one hand, and on the other hand the waste and futility of antiquated or inhumane or blind penal systems, are concealed from the average man until mass public opinion insists that the facts be thrown upon the screen. Then and then only will effective remedies be applied.

It might be wished that such agencies as law enforcement, as police, courts, and prison systems would reform from within. But probably they will not. Certainly we have every reason to believe

that in practice they do not. It is idle to say that, if the police system or court practices and procedure need jacking up, the whole monopoly of reform should belong to veteran police or learned students of yesterday's law, because they are best fitted with knowledge of the situation. It is idle to say this if, after the enjoyment of that monopoly, they have done approximately nothing.

The report of the special committee of the American Bar Association in 1923 indicated that reform was needed from within. It said:

Our procedural criminal laws are outworn and cumbersome. . . . In dealing with the criminal law the conservatism of the bar is well known . . . our system lacks in three great essentials for law enforcement—celerity, certainty, and finality.

Chancellor Hadley, as quoted before, has said to the bar association:

I am afraid that we cannot look for the reform of a system from those who administer it. It is difficult to get those who help to create a system to see its faults. . . . The criminal practice has, except in unusual cases, been abandoned as unremunerative and unattractive by the great majority of our better lawyers. The result is, therefore, not surprising. As a piece of social engineering, our system of administering criminal justice has proved badly deficient, but no one in authority by reason of position or learning has pointed out the defects. Though we have realized in a general sort of way that we were trying to make effective a system devised for social, political, and industrial conditions of life after those conditions had long ceased to exist, very little has been done to adapt this system to conditions of modern life.

When Dean Pound, of the Harvard Law School, directed the Cleveland Survey he was unable to find any substantial measure of evidence that without the spur of public opinion the members of the bar would do much to improve the law-enforcement machinery.

The record and the opinion of authorities have convinced me that, if the loopholes and stupidities in our battle front against the criminal are to be eliminated, it will be done by public opinion and citizen action, and by no other agency.

What, then, are the steps to be taken? The first of these is organization. If any community has the need for any organized action, it is the need for action to insure the safety of persons, property, and peace. As a result of this investigation of which this comprises the last chapter, there has been formed already a National Crime Commission. It is for that body to determine its course of action, but it is my hope that its existence and its efforts will result in crime commissions in every state and every city in the land. A national organization may be unable to do more than act as an information centre, a clearing house, and coördinator for local, voluntary citizen organization. To do more would be to assume responsibilities chargeable to states, cities, or zones. To attempt more might point the evil way toward thrusting upon the Federal Government a new job which it could not do even with the creation of another expensive and danger-

ous bureaucracy of oppressive centralization. The only form of centralized action which can be urged upon any central body is that which cannot be undertaken effectively state by state. One example is the great need for an adequate central national identification bureau to prevent criminals from hopping from state to state, and even from city to city, so that when they are arrested they cannot conceal their character or claim the favour of being treated as first offenders. Another instance is the crying need to fingerprint all immigrants and deport those arrested for serious offenses. We have often obtained criminal material from abroad; we should send it back. Another is the necessity, recognized by the majority of observers of crimes of violence, of Federal action forbidding interstate commerce in arms capable of concealment on the person.

But in the main, the suppression of our tide of violent criminality depends upon local organization of citizen bodies acting voluntarily and legally.

The first result of such an organization arises from the mere fact of an expression of citizens' interest. No criminal, no police official, no court officer, no jurymen, no parole-board member, no pardon-granting governor will fail to feel a new sense of responsibility. The second step, probably, will be a survey of the situation at hand. And such surveys, if properly conducted, will in most communities reveal conditions more amazing to the public than any I have been able to present.

Surveys, however, are dangerous undertakings. If conducted by impartial fact finders, they are almost an obligation upon any citizen organization which undertakes to deal with the crime evil. The grave danger lies in the fact that so many so-called experts are faddists. Many of them will overlook crime and concentrate upon vice, or the failure of enforcement of some particular goose-stepping law. Many of them will skip lightly over crime and the machinery of punishment in order to report that crime is only a by-product of mankind's imperfections and misfortunes, in the same way a foolish general resisting invaders might, under fire, stop to lecture to his troops on the fundamental causes for war.

The only survey worth anything is made by a surveyor who wants to teach nothing and is hungry to learn everything. It is a little difficult to find an expert of this kind in a day when so much attention has been directed at the idea that the criminal and his misfortunes are the objects to which all relief and effort are to be dedicated.

Furthermore, necessary as fact-finding may be, useful as good surveys always are, there is a good deal to be said for the acceptance, before the survey, of much information for this simple reason—it is known to everyone. The proof of an affliction of a barrage of hold-ups, killings, bank robberies, and other crimes of violence, often requires no statistics, charts, data cards, or learned treatises.

There may be a good deal of nonsense in spending a thousand dollars to find out that a certain section of a city is more violent than some other; the first, second, and third man one meets on the street know it already. It may be quite clear to the average man, without further proof, that the machinery of the courts is full of loopholes; it may be quite apparent to any citizen, without the help of an expert, that many criminals turned out on bail or released by parole boards commit new crimes. And yet no one can deny that, unlike other civilized countries, we lack criminal statistics, information as to the subtle means by which the criminal finds outlets through which he slips away and goes back to his professional career, and as to that woeful lack of coöperation and even ill feeling between the police, the courts, and the penal authorities, which has led several wise observers to suggest that in every state there should be one department in charge of all the machinery of law enforcement.

I have been convinced that surveys and careful investigation of the facts are the first need in the crime situation in America. I have been convinced by my own investigation that, if these local surveys are stimulated from a central national crime commission, a step will be taken toward some measure of standardization of our statistics and our information about crime. I am convinced that grave difficulties are in the way of overcoming the lack of coöperation between city and city, state and state, in

identifying and prosecuting criminals, and in preventing their free flight from jurisdiction to jurisdiction. These grave difficulties are mostly political difficulties, and the jealousies and fears of office-holders in the branches of our law-enforcement system. But such difficulties will not stand in the way of the close coöperation of all the local citizen organizations, particularly if a responsible clearing house exists in the form of a National Crime Commission. I am convinced by all I have seen or gathered that certain results of honest surveys can be counted on by any reasonable man before the surveys are made.

Let me set down what these results, in my belief, are sure to be. First, the public opinion will be amazed at the blind patience with which it has overlooked the rising tide of crime and lawlessness.

Second, the mere legal, voluntary, local organization of citizens will help to obtain coöperation between the police, the courts and the penal agencies, and, what is more, by their mere existence will bring pressure on all law-enforcement agencies to brighten up the record with more speed and less laxity in the processes of enforcing law.

Third, the burden of multiplicity of laws and the burden of many goose-stepping laws which attempt to give commandments for the conduct of the individual will be properly estimated. And the pretense that all the laws can be enforced will be relegated to the realm of hypocrisy.

As Dean Pound said in his review for the Cleveland Survey:

Every new statute adds one more to the mass of prescribed penalties for which a criminal prosecution may be invoked. It is impossible for the legal machinery to do all which our voluminous penal legislation expects of it.

If this is true, and I have every reason to believe that it is, public opinion and wise public authority will deliberately choose to concentrate first on attacks upon the crimes and misdemeanours which threaten the community and its peace and order. These are crimes of violence, the crimes which threaten the safety of citizens and their property. If it is necessary to choose between enforcing law against robbery with a gun and law against smoking a cigarette, few persons would hesitate in deciding which law should be upheld by the police, the courts, and all the agencies of law enforcement.

Fourth, a legal, voluntary, local citizens' commission may be made a great aid to the development of one of the primary needs for an intelligent fight against lawlessness—the education of the public in the duty of citizens to protect themselves and to perform their obligations. Almost everywhere comes the complaint from police that citizens engage in a variety of follies which expose them and their homes and businesses to the criminal. Carelessness in employing strangers and in exposing places of business and homes to the marauder, the general display of wealth in the form of money,

jewellery, and expensive furs worn on the person is a new development of our life which beckons to the wrongdoer.

But it is in the duty of our citizens to give active aid to the forces of law where lies the great assistance to those forces. The reluctance to give information, to volunteer testimony, to give unflinching service as witnesses in criminal trials and to accept and fulfil service as jurymen has done no end of damage to the effectiveness of our law enforcement.

Fifth, it will be shown that no administrative reform in the police system can yield any substantial result unless the whole concept and plan of our police systems are revised. We are still contentedly regarding our police systems as being essentially the same system of watchman service which went on a century or more ago, when a man with a lantern went about thumping with a stick on the pavement. To-day we are still emphasizing the patrol. Under modern conditions, the patrolman, in our undermanned American police systems, has to cover large territory in a uniform which marks him out as a warning but not much of a menace to the skilled marauder. As someone has pointed out, the patrolman is the representative of the police department to whom the crime is usually first reported after its commission has been discovered; the detective is the man assigned to the task of finding out who did it. My investigation has indicated to me that the weaker part of this after-the-

deed system is detection. There is need of more education in detective bureaus, need of more co-operation between state and state, and city and city. But when the police system is revised, two requirements must be met: The first is the need of improving the quality and number of men in the service. We are far below the European countries in our police man power, and because of our vast new traffic-police problem and the burdens we have thrown on the police to enforce our personal-conduct laws, we are to-day faced with the necessity of paying more police and paying them better if we want to step ahead of the criminal.

The second requirement is equally important and more difficult to show to the general public. Our police systems must expand their function of followers of the criminal to functions which will make it possible for them to forestall the criminal. In other words, the great development ahead in our police system is the development of crime prevention. Two fields are open for that development.

The first is the creation of a real secret service in distinction from a detective staff the personnel of which is known to criminals. Responsible police chiefs and experienced judges of criminal courts have told me that without undercover methods any police system would always be at a ludicrous disadvantage in a contest with the criminal population. They have said that without a real secret service working unseen and unknown, the police would al-

ways be in the position of beginning work after the deed was done.

The other field of prevention lies in the development of our police systems as agencies for attacking crime at its source by engaging frankly in social-service work. This proposal, first conspicuously made by Commissioner Wood, of New York, has been elaborated by Raymond Fosdick in his survey of the Cleveland police.

The importance of having a separate division recognized as the responsible agency in the department for the promotion of facilities for constructive efforts of crime prevention cannot be overestimated. When such a division is established, there will be a logical place for inaugurating new practices and experiments in social service and pre-delinquency activities, thus avoiding haphazard creation of a number of small new units which are likely to be poorly organized and inadequately supervised. Finally, the special-service division should become the police department's liaison division between schools, hospitals, and private charitable and correctional institutions. Because of the character of its work, such a division could readily secure a degree of coöperation with other agencies of social service that is not now usually had by any other branch of the police department.

It must be admitted that this whole idea is new in police work in America, but its basic idea gives shape to the police work of the future. There is as much room for crime prevention in our communities as for fire prevention or the prevention of disease, and in this endeavour to limit the opportunities of crime and keep it from claiming its victims the police department must take the leading part.

Sixth, the citizens' committee will probably find that the members of the bar in their locality have

been asleep as to the delays, the inefficiency, and the laxity of criminal court procedure, but that when summoned to action will give willing and helpful service and even leadership in closing the loopholes for the criminal. This work is one of the most important of all in our fight against crime. The most insidious blight which affects our law-enforcement record is the widespread idea among criminals, and those who are tempted to become criminals, that wrongdoers can "get away with it" with the help of a skilled, and sometimes unscrupulous, criminal lawyer.

The Cleveland Survey in one sentence describes the situation in most of our jurisdiction:

The professional criminal and his advisers have learned readily to use this machinery, and to make devices intended to temper the application of criminal law to the occasional offender a means of escape for the habitual offender.

Anything which can be done to bring back the active influence of the bar as a whole upon criminal procedure will assist the closing of those loopholes which antiquated practices, founded upon outworn historical reasons, and mere trickery to obtain delay or hoodwink juries, have opened so wide that they defeat punishment. As the Cleveland Survey states:

As everybody knew before this survey was attempted, and as nearly everybody knows in every American city, except when regular clients are involved or an exceptionally large fee is in sight, most of the better grade of lawyers deliberately stay away

from the criminal courts. As a result, with some notable and praiseworthy exceptions, the practice in those courts is left to the lawyers of lesser sensitiveness regarding professional practices. The answers to the questionnaire formed an interesting verification of this fact. The criminal branch of the administration of justice, dealing as it does with the protection of the community against crime, the promotion of the peace, safety, and morals of the inhabitants, the lives and the liberties of men, and, therefore, from any intelligent point of view, the more important branch of the administration of the law, has become a sort of outlaw field which many a lawyer avoids as he avoids the slums of the city.

It is impossible that the members of the bar in any locality will remain inert if the question arises as to whether criminal law abuses are to be remedied by the coöperation of the bar or by an aroused public opinion alone.

Seventh, the citizen committee will discover that it is almost inevitable that medical science—and this means mental hygiene investigation—will enter the field of law enforcement and punishment and find a useful place there. But unless the case for this is presented by those who are free from fanaticism on the subject, it has been made clear to me that more insidious harm to good sense and good community discipline will come from this source than from any other. The whole subject of borderland mental abnormality or deficiency is loaded with dangers to individual responsibility. The whole subject, centering attention upon the individual, tends to make us think that our whole penal system must either be a system of hate, revenge, or retribution hurled at

the individual, or else a system of diagnosis and cure of the individual. It tends, therefore, to make us forget that we punish or isolate one individual to give notice to thousands what it will cost to engage in a similar misdeed. And this is the most important of all things to remember.

Citizens' committees should realize that mental diagnosis is still in the experimental stage. They should remember that mental cures of criminals have not yet been generally demonstrated. They should remember that no demonstration of abnormality or deficiency in criminals is worth much until it is known whether there is more of it inside the prison walls than there is outside, for that oversight has already produced ludicrous errors. They should remember that if a mental pervert or defective is discovered by psychoanalysis there is not less reason for the state to hold that individual, but additional reasons for holding him for a longer term.

Under these precautions a new scientific assistance to crime prevention, particularly as applied to the juvenile field, may be welcomed.

Eighth, the whole prison and penal system will be regarded by everyone, as it is regarded by every expert, observer, official, and correspondent who has addressed me, without any trace whatever of that old ghost of retributive punishment of the individual. The mollycoddler groups always parade that old ghost when they wish to indicate that if we

reject their love treatment of the criminal, our only resort is to hate the criminal. I have seen numerous editorials written by those who, thinking we must choose between the two, went skittering off on the humane side. This is nonsense.

When you see a man in prison he is there for three hopes. The first is that his punishment will tie a cost tag on the temptation of hosts of others. The second is that he will be in a place where he cannot quickly do any more harm. The third is that, from within himself or by treatment from without, he may be cured or reformed or readjusted. All three of these hopes are free from inhumane emotionalism.

The important question to be decided is how long he must stay there and how he is to be treated while he is there. Certainly the first hope would be defeated completely if he were not there long enough and were treated so considerately that the cost tag was marked with a price for crime that would tempt rather than repel the hosts of others who might wish to do what he did. This, and not any hate or inhumane proposal, is the basis for the protest of sensible citizens against mollycoddling the criminal. As to the second hope, that the criminal will be restrained while he is in danger of committing a new offence, we may as well realize that some individuals might go a lifetime in prison and always be dangerous.

In one state penitentiary I spoke with a prisoner

who had been within eight minutes of execution in another state, had been pardoned by the governor, had crossed the border, and within forty-eight hours had attempted to kill a man. From various parts of the nation I have been sent examples of how little insight is exhibited by parole boards in the release of prisoners. The idea that parole boards are always more free from political pressure than governors, or that they can intelligently deal with forty or fifty cases in an hour or two, is plain nonsense, and investigation will show it. We have no adequate means yet to insure that the dangerous man is retained in safekeeping, or that the unfortunate who has committed a crime of sudden impulse and will never repeat is allowed to go when we have sufficiently punished him as an example to others. I know one man sentenced for life who killed under a set of circumstances which would have made most men act, who since being in prison has acquired a technical education, and who is one of the safest and sanest and most promising young engineers I have ever met. He is still there. On the other hand, I have the authentic account of another criminal who was turned out after psychiatrists and a board had looked him over. Here it is:

Frank M., a teamster, killed his daughter, Mrs. Violet S., twenty-three years old, with a hatchet in their home, late yesterday afternoon, according to his story to the police, who said he told them he was sorry he did not kill his wife as well. Policemen who broke into the house and arrested M. found the woman's body on the floor. Her skull had been crushed

and one leg almost severed. M. was released from the state prison six months ago after serving eight months of a two-year sentence for attacking his wife. He slashed her throat with a razor and she was in a hospital for several weeks. According to the police, M. said he became angry yesterday because his daughter's dog was barking.

The record of paroled prisoners is none too good in any case, as I have shown in another chapter, and I am informed by the police of various cities that paroled-prisoner records, inadequate in any case, would appear even worse if allowance were made for the fact that any wise paroled individual waits until his period of parole has ended before he begins new criminal operations. The truth about paroled prisoners, pardoned prisoners, and prisoners who finish their term, if they belong either to the mentally defective or wilfully habitual criminal class, is that they exhibit an extraordinary tendency to repeat. The truth, as honest surveys will find it, is that no matter how lame we may be in our processes of conviction for crime, our methods of sentencing, and our methods of determining the length of time a prisoner should be retained or when he should be pardoned, paroled, or released are still lamer.

Finally, as to the third hope, that the right environment in prison with the right medical and mental corrective treatment will cure criminals, I have been unable to find any conclusive proof covering a wide field that more individuals, past their formative period, reform now than in the days

when less science was expended on them. We all hope it will be so and would welcome proof of it. The juvenile field undoubtedly shows growing results from individual treatment, classification of groups, adaptation to training according to fitness and from an intelligent treatment while the clay is still pliable.

But the most humane hope of all is the first—the hope that the cost tags of crime and lawlessness may be plainly marked. If one prisoner suffers, if he fails to reform, if he becomes a repeater, we may still be comforted by the fact that he could usefully suffer still greater misfortunes in the merciful and intelligent cause of proving the authority of the state and of dissuading youth from imitating him.

After all, the citizens' committees—committees which I feel now are the only instruments we can devise immediately and intelligently and sternly to meet growing lawlessness and reckless criminality—will find occasionally a human story almost as convincing as volumes of statistics. Such a piece of evidence was given by a member of a middle-western police force:

"Charley J. was known to us as an old offender. He came into town one day, and a few nights later he went up to the little shop kept by old man K. The old man lived over his shop. Charley banged on the door until the old man opened it, and then he blazed away at him and put three bullets in him.

He took the money the old man had failed to bank and left him lying in his own blood. Then he skipped town. They gave me the case and I did some travelling and a lot of work for eighteen months. It was a case I wanted to work on, and the chief had his back up. At the end I landed Charley in the East and got him back. I spent more time than enough in courtrooms as a witness. The whole thing dragged for more than a year, and Charley was out on bail. Finally, they sent him up to — Penitentiary. But somehow he had agreed to plead some robbery charge as a first offender in this state and then I learned he would only have to serve three years at the most. But I was satisfied until I went up to the — Penitentiary. I saw Charley there.

"I am a married man. I've been on the force fifteen years. I've got four children and a wife, and it's expensive, and I live in a basement apartment. I began to figure. I took some measurement and I got some figures. I found Charley was occupying a more expensive space in real estate than the one I have for my family. I had to pay for mine; he didn't pay for his. He got a doctor free; I paid a doctor a hundred and fifty dollars that year. I couldn't afford to take my wife to the theatre; I hear Charley had big shows come up to the penitentiary to him. I took one magazine; he got twenty. He had a radio in his cell. That's about all he paid for. I'm out all hours; he worked eight

hours a day unless he had a headache. I didn't wish him any harm, but when I thought of the two of us, the crook and killer and the boob policeman who caught him, I had to laugh.

"And then one day I was over in ——, and, at the Union Station, I ran into Charley. He said, 'Hello,' and I said, 'What's the matter? Did you move? Didn't you like the service?'

" 'Oh, you can't touch me,' he says. 'I've got my papers from the parole board, but believe me, I'm going to make a good jump. I'm going to New York.'

" 'How long did you serve?' I asked.

" 'Sixteen months.'

" 'And I spent eighteen and caught the sciatica to get you.' And he laughed.

"And when I thought it over I thought, somebody higher up is getting theirs! There must be something crooked."

He was told that there was nothing crooked, that the fault was with the law-enforcement machinery and not the operators.

"Well, if there isn't anything crooked," he said with even deeper gloom, "they ought to stop examining crooks for their insanity and take a look at you and me and all the rest of us."

In this statement, the officer properly placed the blame for the American crime tide exactly where it belongs.

I have been asked to state a remedy.

That remedy is not more Federal bureaucracy, it is not more passing of responsibility to centralized and distant authority, it is not continuing to leave the solution to experts, or to the initiative of the law-enforcement agencies which have taken no initiative.

The remedy lies in citizen action. The stirring of public opinion is not enough. To be shocked by conditions as they are is insufficient. Organized action is necessary. A national citizen organization may do good, but its chief use will be to stimulate and coördinate the action of local citizen organizations so that all our communities may act to clean-up their own houses and yet be in step with a common national purpose.

The preservation of law, order, and peace against the organized forces of criminality, against the flabbiness of the times, against the subtle forces which are on the side of disintegration of all authority, is one of the tests of our institutions. In the last analysis, the institutions are no stronger and no weaker than the citizenship which is behind them. Citizenship of a democracy must stand ready to furnish repair crews when the machinery breaks down.

Our lawlessness and our crime and the inefficiency with which we are dealing with them are the first call of this day.

